

Political Studies Associations Conference
University of Edinburgh 1st April 2010
Study of Parliament Group Scotland Panel 1: Comparing the Power of Holyrood
and Westminster

Paul Cairney, University of Aberdeen paul.cairney@abdn.ac.uk

Coalition and Minority Government in Scotland

Abstract

Although Wales flirted with the idea in 1999 and 2005, the formation of an SNP government in 2007 provides the first full test of the effect of a prolonged period of minority government since devolution in the UK. This paper explores the difference that minority government makes when compared to coalition government. It suggests that the first eight years of devolution were marked by a form of majoritarian (coalition) government that would not seem out of place in the UK. This, combined with the inheritance of a partisan, government-versus-opposition, culture from Westminster suggests that 'new Scottish Politics' did not depart from 'Old Westminster' in the way that many expected. Therefore, the advent of minority government was accompanied by renewed calls for new politics in the spirit originally envisaged, and by renewed interest in comparisons with countries displaying a longer tradition of minority government. The early evidence suggests that the SNP was initially reluctant to enter minority government and has often disengaged from the Scottish Parliament. Most opposition parties have also failed to come to terms with their new role. Therefore, the Parliament is still not a policy-making body. This has significant implications for the long term prospects of minority government in Scotland. Strøm (1990) argues that minority governments are most likely in political systems, such as Scotland's, which possess strong parliaments. The argument is that a strong parliament gives an opposition party the chance to have policy influence. The party is therefore content to negotiate policy concessions, from a minority government that often needs its support, and wait until the next election produces a better result. In the absence of such a policymaking role the opposition parties may not support minority government. On the other hand, the set-up has proved surprisingly stable, giving time to parties to adapt to their new roles. Much therefore comes down to how we treat the first minority government in Scotland – as a signal to parties that they will not enjoy much policy influence in opposition or as a period of transition with no long term consequences.

New Party, New Politics?

'New politics' is a loosely defined term which refers partly to the need (and desire) of political parties to cooperate with each other within a relatively powerful and representative Scottish Parliament (McGarvey and Cairney, 2008: 11). The formation of a minority SNP government in 2007 produced the potential for this type of politics in Scotland. Yet, this statement may seem ironic to the so-called 'architects of devolution' (2008: 4) because new politics was supposed to begin in 1999! The use of (mixed member) proportional representation for Scottish Parliament elections suggests that no party will gain majority control. Yet, devolution initially produced the closest thing to

majoritarian government: two four-year parliamentary sessions of coalition government formed by the largest party, Scottish Labour, and its junior partner, the Scottish Liberal Democrats. In 1999, Labour won 56 seats and the Liberal Democrats 17, producing a majority - 73 (57%) of 129 seats (minus one seat held by Liberal Democrat Presiding Officer David Steel). This was followed in 2003 by a reduced but still significant majority - 67 (52%) seats produced by Labour's 50 and the Liberal Democrats' 17 (the Presiding Officer role was taken on by the SNP's George Reid). Crucially, the Scottish Executiveⁱ coalition also commanded a majority in every Scottish Parliament committee. This control of the parliamentary arithmetic, combined with a strong and successful party whip (particularly within Labour), produced a form of majoritarian government that would not seem out of place in the UK.

In 2007 the potential for coalition was not as straightforward. The SNP won 47 seats (from 27 in 2003 and 35 in 1999) compared to Labour's 46 but, given the nature of the overall result (the Conservatives won 17, Liberal Democrats 16, Green 2 and Margo MacDonald 1) it could not form a majority coalition with one other party. Although there was some scope for cooperation between the SNP and the Greens (based on the same attitude to Scottish independence and an SNP commitment to certain environmental issues), its potential links to the other parties were problematic. Formal coalition between the SNP and Liberal Democrats proved impossible when the latter insisted that the former drop its plans for an independence referendum as a condition of coalition. Further, a formal coalition with the Conservatives would be politically damaging for the SNP in the short term (the Conservatives are still tainted by 18 years of unpopular government in Scotland from 1979-97; the SNP is to a large extent a left-wing social democratic party) and the long term (if the Conservatives win the UK general election in 2010, the SNP may campaign for independence by highlighting the re-emergence of a 'democratic deficit' in Scotland and minimal support for a Conservative government ruling Scotland).

Therefore, the key point to note is that the SNP was initially reluctant, but effectively obliged, to go it alone and form a single party minority. This suggests that the renewed rhetoric on the scope for 'new politics' that minority government affords was only spoken loudly *after* the options for coalition had been exhausted and rejected. The SNP subsequently made a 'virtue out of necessity' (Mitchell, 2008: 79) but was uncertain about its ability to make legislative progress (or at least present an image of governing competence – Paun, 2009) and was not confident about its ability, or the ability of any minority government, to stay in office for the four-year period. This reflects two main factors. First, despite Strøm's (1990) best efforts,ⁱⁱ it reflects a strong 'conventional view' of minority government that 'associates it with instability, inefficiency, incoherence and a lack of accountability' (Mitchell, 2008: 73). There is a strong, longstanding culture or set of assumptions held by most parties in Scotland in favour of the value that a majority provides. Minority equates with instability not opportunity; potential opposition and disarray, not opportunities for new politics. There is also the occasional charge, regarding the SNP's independence agenda, that minority government is unrepresentative (McIver and Gay, 2008).

Second, the 'conventional view' has been reinforced in the UK by the very limited, unhappy experience of minority Westminster government in the mid and late 1970s. For Mitchell (2008: 74) this suggests that the perception is 'historically bounded' because minority government coincided with a traumatic period of Labour rule. There are also two more recent experiences of minority Labour government in Wales. The first Welsh Assembly election gave Labour 28 of 60 seats and prompted it to try minority government from May 1999. However, the process was problematic (and helped produce a vote of no-confidence in leader Alun Michael in February 2000 – Osmond, 2000: 3), in part because the institutions were new and the clarity of roles between executive and legislature were relatively unclear in the NAW. When the 'approach failed .. a formal coalition was negotiated with the Liberal Democrats in October 2000' (Seyd, 2002: 124). Minority government was avoided until 2005 when the withdrawal of Labour's Peter Law - for both health (Law was diagnosed with brain tumour) and political reasons (Law objected to all-women shortlists) – reduced Labour's number from 30 to 29 AMs (Seaton and Osmond, 2005: 8-9). This experience accentuated the negative picture of minority government, producing a willingness of the opposition parties to 'cooperate in wounding Labour' by delaying the Assembly budget for months (Wyn Jones and Scully, 2006) and overturning Welsh Assembly Government policy on tuition fees (Cairney, 2009a) rather than to cooperate in a positive way to achieve concessions. The picture of instability caused by inevitable partisanship continued following the election results in 2007 and a process of 'disarray' (Mulholland, 2007) before Labour chose to form a historic coalition majority with Plaid Cymru rather than go it alone (although it was sold in many quarters as a **bold** move to provide further policy distance from New Labour in London).

The common factor in these cases is that the main parties associate minority government with turmoil and have striven to avoid the possibility ever since. It is rare for governments in the UK and devolved territories to go down this route through choice.ⁱⁱⁱ Although the ideas associated with a new style of politics and policymaking (equating minority government with PR and cooperation) were in good currency before devolution, they were rejected in 1999 by a Labour party more likely to favour stability as a basis for its legislative programme, and accepted very reluctantly by a Scottish National Party with little room for manoeuvre. In this light, the three years of minority government have been marked not only by calls (eventually) for the return of 'new politics', but also by the remarkable turnaround of the image of minority government in Scotland with or without it (for a so-called 'insider view' on this development, see Harvie, 2008).

New Politics Revisited

'New politics' became a 'rallying call for the architects of devolution' and, as such, a lens through which most evaluations of Scottish political success have been measured ever since (McGarvey and Cairney, 2008: 14). It was promoted for two main reasons. First, it became linked to the unsuccessful referendum on Scottish devolution in 1979 followed

by a long spell of Conservative government which increased attention to the 'democratic deficit' (in which Scotland voted for one party of government, Labour, but received another). The new campaign for devolution took shape following the set-up of the Scottish Constitutional Convention (SCC) - a collection of political parties (primarily Labour, Liberal Democrat and Green), the Scottish Trade Union Congress, Scottish Council for Voluntary Organizations, religious leaders, local authorities and civic organizations - in 1989 (2008: 34). The SCC sought to reinvigorate elite, media and popular support for devolution by addressing the concerns associated with previous devolution proposals and articulating a new vision of Scottish politics based on narratives of its past. This rhetoric became inextricably linked to dissatisfaction with the democratic deficit and a feeling that devolution could have saved Scotland from the worst excesses of Thatcherism (McCrone and Lewis, 1999: 17). Indeed, the SCC vision was developed at the same time that many of its participants were acting as the unelected opposition to Conservative government rule. Thus, the remote, top-down and unitary UK state was contrasted with a vision of consensus for Scotland based on a narrative of Scotland's political tradition and longstanding propensity for the diffusion of power, combined with popular and civic participation in politics (Cairney, Halpin and Jordan, 2009). The SCC (1990; 1995) articulated hopes for: 'participatory democracy in which the Scottish population would seek to influence decisions made in Scotland directly rather than through a ballot box which seemed so remote; pluralist democracy, in which interest and social groups would seek to counter policies 'unsuitable' for Scotland at all levels of implementation; and deliberative democracy, in which a separate level of debate about the direction of UK policies implemented in Scotland could take place' (McGarvey and Cairney, 2008: 244).

Second, it followed a perceived crisis of popular disenchantment with politics, producing the potential for a Scottish Parliament to be seen as yet-another layer of bureaucracy or source of yet-another pool of self-serving politicians with no meaningful link to, or care for, their populations. In both cases, the devolution agenda embodied hopes for a new style of politics far removed from 'Old Westminster' as the main source of discredited policymaking. While some attention was paid by the architects of devolution to the 'consensus democracies' (and Nordic politics in general), most was devoted to making sure that old politics was left behind.

New politics was therefore based on a range of perceived defects of the UK system, including, primarily, an electoral system that exaggerates government majorities, excludes small parties, concentrates power within government rather than Parliament and its committees, contributes to parliamentary 'overload' and encourages adversarialism between government and opposition (2008: 12-3). Thus, it referred in part to the selection of a proportional electoral system and all that this produces, including the strong likelihood of coalition, the need for parties to bargain and cooperate and, hopefully, a consequent reduction in partisanship and rise in consensual forms of politics.

To foster a sense of 'power sharing' between government, parliament and the public, the parliament was not only set up as a hub for popular participation (including a new public petitions process) but also vested with an unusual range of powers (when compared to

other West European legislatures). In particular, while the Consultative Steering Group (a cross-party group with members drawn from the SCC, established by the UK Labour Government and charged with producing the standing orders of the Scottish Parliament) recognised the ‘need for the Executive to govern’, or produce most legislation and make most expenditure decisions, it also envisaged a much stronger parliamentary role (Scottish Office, 1998; McGarvey and Cairney, 2008: 90). It recommended: the fusion of Westminster’s standing and select committee functions, to enable members scrutinising legislation to develop subject based expertise; the ability of select committees to call witnesses and oblige ministers and civil servants to attend; and, the ability to hold agenda-setting inquiries and to initiate legislation if dissatisfied with the government response. Crucially, the select committees were also charged with performing two new roles to ‘front-load’ the legislative process and make up for the fact that, in the absence of the House of Lords, there would be no revising chamber. First, they would have a formal pre-legislative role, charged with making sure that the government consults adequately with its population before presenting legislation to parliament (McGarvey and Cairney, 2008: 91; 104). Second, they would consider both the principles of legislation and specific amendments to bills before they were discussed in plenary.

Coalition Government from 1999-2007

The first eight years of devolution proved that new powers and institutions were not effective on their own. Rather, the implementation of new politics also required a cultural change among MSPs and political parties (Cairney, 2006). To a large extent, we know this now because no profound cultural change took place. Rather, we witnessed a curious mix of ‘consensus democracy’ institutions operated by politicians in the Westminster tradition. Although the parties were not particularly divided on ideological lines (Bennie and Clark, 2003), they reproduced a form of government-versus-opposition politics that Westminster parties would be proud of. In particular, the Labour-SNP relationship in the Scottish Parliament reflected a ‘reactionary mentality’ in which ‘some Labour MPs were so paranoid about the Nationalists that any idea emanating from the SNP was immediately rejected because of its source’ (Dennis Canavan MSP in Arter, 2004: 83). Similarly, the opposition parties were quick to exploit government weaknesses on issues such as ‘Lobbygate’ (when Labour ministers were linked to a ‘cash for access’ row), the cost of the Scottish Parliament building, and Scottish Executive coalition tensions regarding flagship policies such as free personal care and the abolition of student fees (McGarvey and Cairney, 2008: 40; 122; 205; 242).

The Scottish Parliament was driven primarily by parties rather than ‘independent-minded MSPs’ (Mitchell, 2008: 77). Most importantly, the coalition formed between Labour and the Liberal Democrats only provided “superficial evidence of ‘new politics’” and undermined the more meaningful political style envisaged by its architects: ‘a minority single-party Labour cabinet obliged to work in the Scandinavian manner with the opposition parties to get legislation through, would have vested parliament with significant policy influence and constituted ‘new politics’ in a real sense’ (Arter, 2004: 83). Instead, the parties formed a governing majority. This gave Labour the sense of control that they feared would be lost if they were forced to cooperate on a regular basis with the SNP: ‘We have to have a settled programme rather than a programme where we

could be ambushed every time' (Maureen Macmillan, Labour MSP, in Arter, 2004: 83). Further, the parties produced successive partnership agreements that tied both to a detailed programme of legislation and towards supporting the Scottish Executive line (and collective cabinet responsibility) throughout.

The effect of the strong party role was dramatic. The coalition controlled the voting process in both committees and plenary, with Labour demonstrating a particularly strong whip in both parliamentary sessions - caused in part because their MSPs were screened rigorously before their selection (McGarvey and Cairney, 2008: 85; Mitchell, 2008: 77) and because Labour ministers held regular meetings with Labour MSPs before any committee meeting in which a significant vote or decision was likely to take place (although this can occasionally be used to exert committee power – see Cairney, 2007a: 79). There were similarly few instances of Liberal Democrat dissent (and none which threatened the coalition's *Partnership Agreement* overall). The parties were also able to dictate which of their members became convenors of committees (although the numbers of convenors are allocated proportionately) and even which MSPs sat on particular committees. As a result, the independent role of committees was undermined as MSPs were subject to committee appointment and then whipped, while committee turnover was too high to allow a meaningful level of MSP subject expertise (McGarvey and Cairney, 2008: 99; Scottish Council Foundation, 2002; Arter, 2003: 31–2).

The experience from 1999-2007 suggests that it would be wrong to equate the formal capacity of legislatures with their power or influence over policy outcomes (Arter, 2006; Cairney, 2006; McGarvey and Cairney, 2008). Rather, this is largely an empirical question based not only on the formal roles of institutions (and actors within them), but also their resources and willingness and ability to exercise power in particular instances. In many (if not most) cases the powers of certain legislatures only look impressive when compared to other legislatures, not their executives. This was certainly the case when the Scottish Executive coalition dominated the legislative process, passing the vast majority of an extensive legislation programme which undermined the ability of Parliament to set the policy agenda through inquiries. The Scottish Executive presided over a punishing legislative schedule, producing the sense in which committees became part of a 'legislative sausage machine' rather than powerful bodies able to set the agenda through the inquiry process (Arter, 2002: 105). While there is *some* evidence of parliamentary influence during the scrutiny of government legislation (Shephard and Cairney, 2005; Cairney, 2006), the Scottish Executive produced and amended the majority of bills (McGarvey and Cairney, 2008: 106; reinforcing the rule of thumb by Olson, in Arter, 2006: 250, that the executives initiate 90% of legislation and gets 90% of what they want). There was also a trend from 2003 towards increased Scottish Executive dominance, perhaps following the honeymoon period of the first session (and despite the new makeup of the Parliament in which more small parties were represented) but also because the Scottish Executive used legislation to set the Scottish Parliament's agenda (i.e. it could have pursued the policy with non-legislative means).

Overall, the Scottish Parliament and its committees enjoyed neither the resources with which to scrutinise government policy effectively nor the stability or independence

necessary to assert their new powers. Further, although members and committees have the ability to initiate legislation, the same rules apply: members are constrained by party affiliation and limited resources, while committees rarely find the time or inclination to legislate.^{iv} Therefore, after a honeymoon period in the first parliamentary session, the Scottish Parliament produced a level of non-executive legislation comparable in number and scope with Westminster (McGarvey and Cairney, 2008: 103). From 1999-2003, 50 Scottish Executive, 1 committee and 8 member's bills were passed while from 2003-7 the split was 53, 1, and 3. From 1999-2003 166 inquiries were conducted (Arter, 2004: 77), but this fell to 99 in 2003-07 (of which 11 were short or one-day inquiries). In short, 'while the Scottish Parliament's powers are extensive in comparison to most West European legislatures, it is much more difficult to demonstrate the effects of their powers in relation to the Government in the first two parliamentary sessions' (McGarvey and Cairney, 2008: 108). The evidence of new politics and the effects of the new institutions were thin on the ground.

Therefore, it is understandable that May 2007 was seen by many as a new beginning. However, while newly-elected Presiding Officer Alex Fergusson used his acceptance speech to call for the return of new politics (Scottish Parliament Official Report 14.5.07 [col. 13](#)), most commentators did not know what to expect. There is no accepted way for the parties to gauge the success or failure of the new arrangements.

Minority Government Since 2007: Is this really what new politics looks like?!

There are many ways to measure the importance of minority government. In particular, we may wish to separate, analytically, issues such as the perceived legitimacy of minority government, the interactions between parties, the government-parliament relationship and the effect of each on policy. For example, in broad terms, many of the omens did not look good: there is still a culture of government-versus-opposition and minority government was a necessity rather than a choice. In other words, Scottish politics lacked a factor key to minority government success: a feeling that it is a desirable way to engage in politics. On the other hand, it is striking how quickly minority government has become the norm in Scotland in the sense that, while the SNP Government is challenged regularly on its policies or governing record, its right to govern is not. There are similar contradictions regarding party politics. Although the SNP rarely voted against Labour policies when in opposition, it was generally critical of them (Mitchell, 2008: 76). Although the new and outgoing First Ministers, Alex Salmond and Jack McConnell, both made positive noises about their new relationship (SPOR 16.5.07 cols. 32-7), it is difficult to ignore the bruising tone of Labour's election campaign followed by its shock and then apparent unwillingness to accept defeat (Cairney, 2009b).

Such tensions are reflected in one of the longest running sores in the 2007-11 session: the use by opposition MSPs of points of order to question the veracity of ministerial statements. While we may accept and even enjoy a degree of partisanship during the theatre of First Minister's Questions, this has been taken to the extreme by allegations that ministers are making untruthful and misleading statements to Parliament (Cairney, 2009c: 30). This prompted two actions (on top of a belated revision to the Scottish Ministerial Code). First, Alex Salmond took the unprecedented step of referring

complaints about his conduct to the new independent advisory panel consisting of the two former Presiding Officers David Steel and George Reid (which ruled in all three cases that he did not mislead Parliament – Cairney, 2009e: 32-3; Cairney, 2009f: 41; Scottish Government, 2010). Second, Alex Fergusson reiterated a belief held variously by all Presiding Officers (and reflected in Standing Orders) that he should not become the arbiter of the truthfulness of comments made by any MSP in Parliament. Instead, he asked the Standards committee to investigate the use of points of order. In turn, the committee endorsed Fergusson's view, proposed that it produce new guidance on the party political use of points of order and called for a joint protocol between Scottish Government and Parliament on their respective roles (Cairney, May 2009e: 32). The perceived need to introduce new mechanisms in this way therefore presents a counterintuitive conclusion: that partisanship has increased and cooperation has decreased since the introduction of minority government.

In most other cases it is difficult to separate issues of executive-legislative relationships from their policy effects. Most important is the extent to which the Scottish Government invites the Scottish Parliament to examine its policies (or the extent to which the Parliament asserts its right to scrutinise Government policy). While the main measure of this activity is the extent to which it publishes draft legislation for parliamentary scrutiny, there is no agreement about how much primary legislation (and of what degree of substance) should be brought to Parliament in one session. Although the perception in Parliament is there has been too much in the past, we do not quite know what is too little.

A key outcome of the 1999-2007 sessions was a widespread sense that too much legislation had been produced and that a new government should slow down (Cairney, 2007b: 83; 2007c: 24; Mitchell, in correspondence). This was a feature of the 'legacy' reports produced by committees in 2007 that suggested they were unable to perform their scrutiny and inquiry functions properly because there was too much legislation to consider (McGarvey and Cairney, 2008: 102). Minority government certainly had an effect on part of this process. The SNP Government, already committed in its manifesto to a reduction in legislative volume (and faced with a tight budget that precluded expensive policy innovation), has found that it does not have the votes to pass legislative measures that it would certainly have introduced if it enjoyed a majority (the SNP also modified its '1st 100 days' commitments considerably). Indeed, the independence referendum bill may be the only one introduced when the SNP knows that it will likely fail. While this reduction of legislative activity is a welcome development, it produces a key question: *does the reduction in legislation demonstrate the power of the Scottish Parliament or the Scottish Government?*

The choice of the latter is in part based on criticism that the pendulum has swung too far in the opposite direction. Legislative diarrhoea has been replaced by constipation. Some of this criticism can be explained away by party politics, particularly when voiced by members of the former Scottish Executive parties. For example, the SNP's first legislative programme was dubbed by opposition parties as 'legislation lite' (Cairney, 2007b: 83), while Labour's business manager, Michael McMahon, recently labelled Alex Salmond as a 'work-shy First Minister leading a group of idle ministers' because the

Scottish Government had passed seven pieces of legislation in two years (Peterkin, 2009; note that opposition party criticism of the legislative programme has always been an annual event). Although this has been addressed to some extent by a recent flurry of activity – there were 15 Scottish Government bills by September 2009^v - there may still be a residual sense that the strategy of the SNP Government has been to distance itself as far as possible from the Scottish Parliament and pursue its policy aims without recourse to legislation (Cairney, 2007b: 83; although the counterargument is that the excessive production of legislation in the first eight years exaggerated the drop since 2007).

The ability of the SNP to maintain policy distance reflects the consistent imbalance of power in Scotland between executive and legislative institutions regardless of the type of government and party balance. The Scottish Government has the vast majority of policy capacity and many of its policy aims (on intergovernmental relations, the civil service, capital finance projects, public service targets, curriculum reform, prescription charges) can be pursued without using legislation, while others can be pursued using the legislation that exists (i.e. with secondary legislation and regulations much less subject to parliamentary scrutiny). Further, most of the conditions associated with majority government still apply. Small committee size and MSP turnover still undermine the abilities of committees to scrutinize government policy and the huge gulf in resources remains (Cairney, 2008b: 17).

Consequently, the Parliament has not filled the legislative gap. There has not been a perceptible rise in successful legislation initiated by committees or MSPs since 2007 (from May 2007-September 2009 the split was 15, 1, and 3). While there was some talk by Labour regarding their alternative legislative programme (Cairney, 2008e: 97; 2009e: 31), this has not taken off (and seems to consist of four member's bills^{vi}). While committees have more time to set the policy agenda through inquiries, few committees have used their newly-granted time effectively and found enough common ground to pursue a long-term inquiry in any meaningful way, while others have merely exploited the chance to make party political points with short, headline grabbing, inquiries (Cairney, 2008b: 16 discusses the inquiry into Donald Trump's development in the Menie estate; see also 2008c: 17-18; 2008d: 20-1; for more recent evidence that committees are able to find areas of common interest, see Cairney, 2008d: 21; 2009c: 37-8; 2009f: 45-8). In the first two years there were approximately 40 inquiries or reports which were not conducted in response to draft bills or legislative consent motions – with at least 10 related to Scottish Parliament procedures, not government policy.

There is also unclear evidence on the tangible effect of the new parliamentary arithmetic on Scottish Government legislation. While we can reasonably expect more government defeats and amendments coming from opposition parties, the effect on the substance of legislation does not seem particularly significant (analysis of this effect by Steven MacGregor is ongoing). Similarly, although there may be evidence that civil servants are now more likely to anticipate the reactions of opposition parties when developing policy (Paun, 2009: 52), there is less evidence to suggest that this has affected that policy substantively. Instead, civil servants appear to be committed to implementing SNP policy and, in some cases, defending that policy and the Scottish Government's record in

public (Paun, 2009: 52; Cairney, 2009g: 53). Further, the process is nothing like coalition government in which civil servants had to clear policy with two parties (Paun, 2009: 52). Therefore, if anything, the Scottish Parliament has become a policy-stifling forum acting as a deterrent to some policy initiation, slowing down the legislative sausage machine without using the extra time to any great effect. It is therefore tempting, still, to conclude that most policy activity is going on elsewhere – particularly since the new concordat between the Scottish Government and local authorities allows a significant degree of discretion over policy priorities (such as class sizes in schools) that the opposition parties have a keen interest in but a lack of powers to direct.

This situation is not altogether surprising because, despite the range of Scottish Parliament ‘powers’, it was not designed to be a policy initiating body. Rather, the institution represents an attempt to improve on the scrutiny powers of Westminster without marking a profound change in the executive-legislative relationship. Committees have the power to hold ministers and civil servants to account, to make sure they consult properly (i.e. they are not expected to undertake large consultations themselves) and to initiate legislation as a last resort if MSPs believe that government policy is inadequate. Yet, they are also instructed by the CSG to let the government govern, arguably encouraged to play a minimal pre-legislative role and, in the case of the budget, not equipped to develop alternative legislation (although see Cairney, 2009f: 47-8 for a discussion of the Finance Committee inquiry and new Financial Scrutiny Unit). The Scottish Parliament also lacks Westminster’s equivalent of a ‘scrutiny reserve’ for EU issues, while the recent process surrounding the release of the Lockerbie bomber suggests that it has no role to play before such Scottish ministerial decisions are made (see Cairney, 2009f: 40-1). Further, the resources of committees and opposition parties are too thin on the ground to provide anything more than scrutiny and criticism (and there appears to be no appetite to boost the resources of committees). It would therefore take much more than minority government to solve the wider problem of parliamentary constraint.

Scottish Parliament committees still do not provide the ‘motor of a new politics’, particularly since Labour’s front bench does not sit on them and Labour has not yet fully engaged with them (in part because the former Scottish Executive does not want to scrutinise its own policies). Rather, key debates are played out and negotiations are conducted in plenary. Indeed, there seems to be a rise in the propensity to overturn decisions reached in committee in plenary (although the research, by Steven McGregor, is still in progress). In the 1999-2003 session the key indicator of respect for committee decisions was the non-Executive amendment of Executive legislation - less than 80% of these were reversed by a Scottish Executive (which had the majority to reverse them all), in part because committee assertiveness was linked to at least one vote by an MSP from a Scottish Executive party (Cairney, 2006: 203). Now, the parliamentary arithmetic is such that a Scottish Government bill may be amended against its wishes at stage 2 merely because the Scottish Government and its supporting party do not have enough votes, only for this to be reversed in plenary at stage 3 when they do (see e.g. *The Herald*, 2009). Or, in the case of the Graduate Endowment Abolition (Scotland) Bill, the whole bill may be rejected in committee only to be approved in plenary (Cairney, 2008b: 23). In many

cases this is linked to the post-2007 abandonment by convenors of the status quo convention. Instead, many are using their casting vote politically, in turn undermining the less established convention that committee decisions are respected in plenary.

There may be some cases, such as the climate change bill, in which we see the best of minority government or the potential for new politics; a genuine attempt by the SNP to pursue a partly ideological policy and a willingness to negotiate the details, combined with opposition party willingness to cooperate and give the necessary support in exchange for concessions (although more research is required to determine how many concessions are merely ‘handout’ amendments from the Scottish Government). Yet, such examples do not seem to be common.

This fact alone may not be enough to provoke opposition parties to ‘go nuclear’ and cooperate to undermine the government (at least while the SNP remains popular). Rather, greater concern has been expressed that the government has deliberately sought to subvert the role of Parliament by ignoring its wishes when expressed through parliamentary motions (Davidson, 2008). The first such event followed the motion passed by the opposition parties in favour of continued funding for the Edinburgh Airport Rail Link and Edinburgh tram project. Both John Swinney and Alex Salmond were then accused on bending the will of Parliament, with Swinney citing irresolvable problems in EARL and Salmond quoting Donald Dewar to suggest that he was not bound by parliamentary motions (Cairney, 2007c: 22; Mitchell, 2008: 80). However, even in this case there is evidence of a negotiated position (the trams project did go ahead) and ministers generally seek to avoid unnecessary confrontations (particularly since they produce opposition party pressure to resign – see the case of Kenny MacAskill and court reform – Cairney, 2009d: 52). Instead, SNP whips and business managers seek to avoid confrontations by negotiating the wording of motions with their counterparts in other parties (Cairney, 2008c: 18; 2009c: 35-6) and acting on many motions (Cairney, 2008b: 21), including the decision to drop plans for a flagship bill introducing a local income tax.^{vii} Few motions force the hands of the Scottish Government. Far more motions either demonstrate a lack of united opposition or merely (in examples such as police numbers or rural schools), ‘seek to reinforce existing Scottish Government policies and place them higher on its agenda’ (Cairney, 2009e: 38). This semi-agenda-setting role is also a feature of the better committee inquiries (Cairney, 2009f: 45-8). Overall, this may be what new politics looks like in practice.

The Annual Budgets

The budget bill process has taken on a new significance under minority government. It is the most important legislative test so far, in part because there is an obligation for a majority of the Scottish Parliament to agree to the bill each year. Effectively, for minority government to continue the Scottish Government must seek agreement for its budget and the opposition parties must find a way to reach a negotiated settlement. This process has shown the best and worst aspects of minority government. First, it is certainly more significant than under coalition government when it was rather routine. Yet, there are still similarities: only government ministers may amend the bill, while committees still tend to focus on limited aspects of the budget (reflecting a lack of

information and resources with which to conduct effective scrutiny). Second, there have clearly been concessions, although their overall importance is debatable (they do not contradict SNP policy but do force it to make choices; they may represent less than 1% of the overall budget, but the SNP government also has minimal control of the budget beyond the margins). In the first budget, the Conservatives secured a greater commitment to funding new police officers and revisit drugs policy, independent Margo MacDonald secured special funding status for Edinburgh and the Greens secured a commitment to carbon assessments of spending plans (Cairney, 2008c: 16). In the second, the Conservatives secured a reduction in business rates, Labour secured funding for modern apprenticeships and the Liberal Democrats secured a vague commitment for the SNP to involve Parliament more in budget planning and engage with the Calman Commission on fiscal autonomy (the Greens lost a larger commitment to fund home insulation when their votes were no longer required). In the third, the Conservatives secured an independent review of Scottish Government spending in preparation for expected cuts following the economic crisis, the Liberal Democrats secured £20m for college places and £10m to the Scottish Investment Bank, and the Greens secured £12m towards home insulation and boiler schemes.

Third, most parties have yet to take a consistent negotiating positions. The Conservative party has been the only consistent actor, seeking concessions in exchange for support. The Greens surprised many by voting against the second bill despite securing concessions. The Liberal Democrats opposed the first two bills (only to support the second bill when revised marginally) and abstained in the third. Labour abstained in year one for fear of causing the bill to fall (causing hilarity rather than relief on the SNP front benches), opposed in year two and contributed unwittingly to the bill's failure on the assumption that the SNP had secured Green support^{viii} (followed by support for the second bill when assured on modern apprenticeships) and opposed in year three (citing the loss of the Glasgow Airport Rail link) when it was finally safe to do so.

Finally, the failure of the second budget bill did not deserve the incredible amount of Scottish and UK attention it attracted. Rather, the process eventually showed that the parties could work together very effectively when faced with an apparent crisis, and a new bill (almost identical to the defeated one) was passed the following week. The budget crisis showed that there is little appetite among the opposition parties for an impromptu election, particularly while Alex Salmond remains popular. This was conformed to some extent by the third annual bill which went through quietly. It is also the most significant example of SNP-Labour cooperation which may prove crucial to the long term success of minority government. Yet, this process is still unpredictable. For example, there was some hope that the SNP's new willingness to pursue its 'flagship' alcohol policy primarily through parliamentary-influenced legislation would combine with Scottish Labour's apparent willingness to support most measures, but the level of cooperation remains to be seen following the latter's rejection of minimum pricing (Maddox, 2009a; 2009b; Cairney, 2009g: 57; Macleod, 2009).

Will Minority Government Become the Norm? Lessons from Elsewhere

It is relatively easy to explain the occurrence in 2007 of minority government in Scotland as a one-off: despite favouring a coalition with the Liberal Democrats, the SNP was not willing to make the key concession – dropping its plans for a referendum on independence – that the Liberal Democrats (who appeared to some extent to be disenchanted with 8 years in government) put forward as a condition of coalition. Further, a coalition with other parties was either not politically desirable (Conservatives) or possible (Labour, the main competitor). It is more difficult to predict whether or not this process will be repeated. One way to explore the durability of minority government in Scotland is to extrapolate lessons from two types of comparative literature – studies which suggest universal rules for government formation and more detailed studies of individual countries.

According to Strøm (1990: 21) the problem of predicting that minority governments will become regular or the norm is that they ‘violate many basic assumptions of how parliamentary democracy works ... They are a counterintuitive phenomenon’. The ‘conventional’ view is that minority governments form in ‘unstable and conflictual political systems, whose party systems may be highly fractionalized. Such cabinets are suboptimal and unstable solutions, which are resorted to only when all else fails’ (Strøm, 1990: 15). They do not follow the rational decisions of political parties and are associated in this literature with ‘malaise, irrationality and poor performance’ (1990: 21).

Possible Explanations for Minority Government

Drawing on Strøm’s (1990: 11-20) review of existing theories it is difficult to equate the Scottish experience with this literature:

1. *Political crisis and instability.* In this case, minorities arise because there is a systemic crisis that precludes coalition or a specific crisis that undermines coalition forming in one time period. However, in both cases the process is underspecified (1990: 10). It would be difficult to explain the SNP’s minority in crisis terms since a coalition with the Liberal Democrats was possible and at some stages seemed likely. Rather, for both parties this resembles more of a strategic calculation rather than one forced upon them (the main constraint is a deadline to elect a First Minister in 28 days).
2. *Political culture and heritage.* Luebbert (in Strøm, 1990: 11-2) explains minority formation in terms of two characteristics of the political regime: (1) the degree of regime legitimacy; and (2) the extent to which opposition parties engage in consensus-building legislation. If both are high, this is a consensual democracy. If both are low, this is a conflictual democracy. In consensual democracies minorities form because there is no incentive to form a coalition majority. In conflictual democracies they form because not enough parties can agree enough to form a coalition. It is possible that 1 may be high but 2 low – this is a competitive system - but Luebbert suggests that this is rare. Yet, the UK political culture that Scotland inherited appears to be competitive and it combines cultures or norms based on conflict (e.g. an adversarial system of government versus opposition) and consensus (e.g. there was a widespread understanding between the parties of the unwritten rules of government formation - that the SNP had the

- right to try to form a coalition or minority government first because it had the most seats).^{ix} Therefore, coalition and minority governments may both be the logical consequences of negotiations in Scotland; the incentives to form a coalition and the extent of party agreement vary over time.
3. *Party system fractionalization.* Sartori (in Strøm, 1990: 12-3) associates minority government with ‘moderate pluralism’, which describes a system with 3-5 significant parties and the inability of any to maintain a majority (‘polarized pluralism’ has more parties at more extreme ends of the left-right scale). The rational position for at least one party is that the largest minority should not be allowed to govern alone when it can oblige that party to share power in a coalition. Thus, minorities result when parties do not act rationally or when, for example, they miscalculate their negotiating positions. Strøm (1990: 13) links this position to explanations based on the ‘fractionalization’ or fragmentation of party systems, in which the more parties there are and the more they split the electorate then the more difficult it is to form a majority. This has direct relevance to Scotland at a basic level, in that the introduction of PR has produced moderate pluralism rather than single party majority government. Yet, it is difficult to explain fully the Scottish position in terms of fragmentation and miscalculated negotiations. The decision by the SNP and Liberal Democrats not to form a coalition was based to a large extent on a basic ideological difference (and, for the latter, ambivalence about re-entering government) rather than a miscalculation. Perhaps both overestimated the extent to which each would compromise or back down to secure power, but both also seemed to revert to a position that was not particularly unfavourable to them – the idea of minority status for the SNP and outsider status for the Liberal Democrats grew on them both. Further, when compared to other systems elected under PR, Scotland does not display a particularly high degree of fragmentation – there are only two parties with the ability to form the majority of a coalition, competing with two smaller parties. While in 2003 parties such as the Greens and Scottish Socialist party enjoyed more seats, Labour and the Liberal Democrats also enjoyed a majority.
 4. *Cleavage conflict and polarisation.* In this case, minorities form because the parties are too divided ideologically to form an agreement. Instead, one party takes on a ‘caretaker’ status (Powell in Strøm, 1990: 14), suggesting that the expectation is that the minority will not continue beyond the next election. To some extent we can see this ideological divide between the SNP and the other major parties. Strøm (1990: 65; 270) characterises the SNP as ‘extremist’ and therefore less likely to enter into negotiations. However, the waters are muddied to some extent by the SNP’s new position that it will only seek a *referendum* on independence. This is something that all parties could sign up for (the others in the hope that the referendum would be unsuccessful). Further, there is not a tangible sense of the SNP becoming a caretaker rather than full-term government, particularly since it passed non-routine legislation to abolish higher education tuition fees less than a year after taking office.
 5. *Proximate Conditions.* Minority governments form when all other options have been exhausted or when no other options exist; they ‘represent failed interparty

negotiations (Strøm, 1990: 15). This is most associated with rational choice explanations of coalition building, with minority government rarely seen as the rational outcome or positive equilibrium. Rather, it is ‘commonly explained through reference to constraints, limited choice, failure of negotiation, and lower-order preferences, conditions that are often tied to the negotiation process itself’ (1990: 15). Normally it follows a high number of failed coalition attempts. We can see this *potential* for failure in these terms because the unusual party arithmetic meant that a coalition between two parties (bar SNP and Labour) would not have been enough and even if the SNP had secured Liberal Democrat support, it also needed help from the 2 Green MSPs who were only willing to provide limited and conditional support. Yet, few coalition negotiations took place and minority government did not follow a failed coalition. Further, while the focus on failed negotiations could be used to explain minority government in Scotland, it is difficult to see why the outcome should be seen as a failure rather than the rational decisions of parties making choices based on their preferences.

Strøm’s Explanation

It is not surprising that such theories appear to fail to fully account for the Scottish outcome, since Strøm (1990: 15) suggests that they are fairly ad hoc and inadequate explanations, not backed up by empirical evidence, for a phenomenon that is by no means exceptional. Minority government accounts for approximately one-third of all post-war parliamentary governments and 28% of government tenure, with only 11% of minority governments accompanied by formal agreements with supporting parties (1990: 59; 95; 116). Further, while coalition government (rather than single-party majority) is the most common in parliamentary democracies (Muller and Strøm, 2003: 1) and they last approximately 25% longer than minority governments (17-18 months compared to 13-14; for a majority party it is 30), they are also more likely to dissolve as a result of ‘crisis’ and to produce a negative incumbency effect. Therefore, minority government may be an attractive proposition for parties (Strøm, 1990: 130).

On this basis, Strøm’s (1990: 38; 69) alternative is to argue that the choice of minority government is rational in many cases, in part by questioning the assumptions of coalition formation - that majority status is necessary for effective government formation, that party leaders are motivated solely by the pursuit of power rather than policy objectives, and that one must hold government office to have policy influence (although the degree of non-governmental influences varies by party and polity) – and highlighting the balance between long term and short term rationality. In particular, if there is an incumbency effect then the longer term pursuit of election success may be consistent with a short term absence from office. Similarly, a party may calculate that short term office may damage its long term prospects, particularly if a condition of office is accepting and promoting policies that undermine the relationship between the party and its core electorate.

In other words, the crucial condition for minority stability is that other parties do not seek to force a coalition. If those parties ‘value policy influence and electoral success, government participation need not be their best strategy ... [instead they may] wait for more favourable circumstances’ (1990: 56; 69). This is based on the assumption that

elections are ‘decisive’: parties present clear alternatives, elections produce significant fluctuations in the share of seats held by parties, parties are less likely to remain in office when they lose seats, and cabinets are formed soon after elections (1990: 73-4).

Strøm’s argument is that minority government is more likely when opposition parties are content to remain outside of government. In turn, this is more likely when they can exert influence in opposition while biding their time waiting for the next election to reduce the incumbent government’s standing and increase their own. In other words, there is a clear long term gain associated with opposition that a rational party leader would recognise when considering the short term benefits of office as the smaller party within a coalition. Strøm’s argument is probabilistic: the more scope for opposition influence that the political system affords, and the more decisive an election is, then the more likely that minority governments will form.

In these broad terms we can identify many of the key Scottish Parliament dynamics. First, and most importantly, it is increasingly clear that minority status does not preclude effective government formation (particularly since the election of a First Minister requires only a plurality of the vote and the subsequent approval of ministers is effectively a formality). Rather, it constrains the nature or volume of legislation that will be accepted by the Scottish Parliament, which is not the same thing when a government can pursue policy through non-legislative means. While the SNP may not pass some bills which are central to the delivery of its manifesto, it still enjoys the power to control the resources of the Scottish Government and pass most of its proposed legislation and has yet to face a motion of no confidence.^x Further, by forming a single party government it benefits from the lack of detailed policy compromises that a majority coalition (or formal minority government agreement with a supporting party) would entail. It has also survived two defeats on its proposed legislation (and regular defeats on non-binding motions). Second, we can detect in the Liberal Democrats (to some extent) a desire to return to opposition to reclaim ideological distance from other parties, while in the Conservatives we can see a clear strategy of exchanging support for policy influence (particularly during budget negotiations). While there is not a formal agreement in place, the Conservative party has proved to be the party that cooperates systematically with the SNP Government. Finally, in Labour we can detect the realisation that the short term pursuit of office would have a longer term effect on its popularity (particularly since it is also tied to an unpopular UK Labour Government). Thus, minority government formation may be more likely in Scotland than in other countries that do not have parties playing these roles.

However, a more detailed analysis of this argument throws up a key methodological problem: *how do we measure opposition influence?* For example, does it relate to the formal powers that Parliaments (and therefore opposition parties) possess, the evidence that such powers are exercised, or a perception by opposition party leaders that they are playing a significant policy-influencing role (since this may inform most directly their contentment with opposition)? In particular, the problem may be that an analysis of formal powers exaggerates their influence. While Strøm (1990: 42) identifies ‘very significant policy influence’ in studies of Italian, French and Norwegian legislatures, we

may struggle to identify the same level of direct and positive influence in Scotland (without considering the extent to which opposition parties merely benefit from and support the passage of policies consistent with their aims). Indeed, if we were to use Arter's (2006: 251) four measures,^{xi} it would be difficult to demonstrate with existing output measures that the Scottish Parliament is more powerful than Westminster, which often represents the caricature of a government dominated legislature in comparative studies. Significantly, this is despite the fact that the Scottish Parliament enjoys virtually all of the powers that, in Mattson and Strøm's (2004: 100–1) work, point to unusually high committee strength (McGarvey and Cairney, 2008: 97)^{xii} and, for Strøm, denote high opposition influence (it has at least 10 committees with fixed jurisdictions, select committees linked to ministerial departments, and committee chairs allocated proportionately by party). It is also despite the relative ease with which the opposition parties could pass a vote of no confidence (for Strøm, 1990: 108, a key factor of minority stability in Denmark). In other words, the Scottish case reinforces the need, explored in Arter's (2006) edited volume, to challenge the idea that some legislatures are powerful because they appear to have the capacity to be powerful (and, as Cairney, 2006 argues, this is power compared to other legislatures, not its government). The high formal capacity of legislatures does not necessarily produce opposition party influence.

This problem highlights the need to go beyond impressions of legislatures and the quantification of their potential impact towards more qualitative or 'interpretive' measures of their actual and perceived impact – a finding that is gaining good currency in rational choice analysis as a whole (Hampsher-Monk and Hindmoor, 2010). For example, we may explore the fact that Scottish institutions were designed to be 'inclusive' as in Norway, but the culture is adversarial as in Westminster (see Strøm, 1990: 90). There also seems to be reluctance among many parties to try to exercise the type of policy influence that Strøm identifies, in part because, unlike in some legislatures, there is no formal requirement of the government to achieve parliamentary approval for its legislative programme in advance. Further, the Scottish committees not only lack resources in the form of staff but also their own members (most post-2007 committees have 8), since the pool of recruitment is much smaller than Westminster which also offers a clearer alternative career route for MPs. Overall, an important caveat in Scotland is that the payoffs seem to be far greater for the governing party than those seeking influence through opposition (there is a high 'policy influence differential'). Despite Strøm's expectations based on formal legislature capacity, rather than more direct measures of influence such as the impact of legislatures on government legislation, opposition parties do not enjoy significant influence in the Scottish Parliament.

Party leader *perceptions* of likely and actual success may complicate this picture further. For example, perhaps the Liberal Democrats *anticipated* that Strøm's prediction would be realised; that opposition parties would become more influential under minority conditions. If this imbalance of power is *now* known (and wasn't in 2007 when the parties had only experienced coalitions), it may affect the strategies of parties in 2011, with the SNP and Labour perhaps more likely to seek minority but the Liberal Democrats more likely to seek coalition (the Conservatives will generally struggle to find a partner in Scotland and so may act accordingly) when they reflect on their lack of influence in

opposition (particularly since their share of Scottish Parliament seats is fairly constant). Yet, we cannot be certain until more research is conducted to determine MSP perceptions of success, since most opposition parties often seem content with their limited involvement in the details of policy. This may be because it increases their ability to step back and criticise it to increase their own electoral standing (although it would be difficult to demonstrate empirically that party leaders favoured future electability over current policy influence). It may reflect their ability to stop some policies – and the independence referendum in particular – in their tracks. It may also reflect the British parliamentary culture, in which the government governs and the opposition scrutinises, that did not disappear when coalition government ceased.

From Universal Explanation to Country-level Comparisons

The logical conclusion to this focus on perception is that universal theories of minority government only take us so far; we need to supplement them with detailed case studies of individual countries and comparisons with others. For example, as Mitchell (2008: 81) suggests, there are lessons to be learned from the Danish case. While minority government has been the post-war norm, it can be usefully divided into before and after the ‘earthquake’ election in 1973 which not only granted new representation to three parties and re-established two more, but also produced a fragmented and polarised party system (Green-Pedersen, 2001: 57-8), characterised by ‘intense electoral competition and policy dispersion among multiple dimensions’ (Strøm, 1990: 107). Attempts to form a majority coalition from the non-socialist parties failed, allowing the Danish Social Democrats the chance to form a minority government. This proved ineffective in the short-term because the Social Democrats were the big losers of the 1973 election and did not adapt well to the need for the increased scale of concessions required to make effective agreements with other parties. Minority government via the non-socialist bloc in 1980s also fared badly at times, in part because its economic policies were opposed by the Social Democrats and, effectively, there were no other parties to negotiate with (Green-Pedersen, 2001: 59). However, from 1994 (following a year of majority coalition government), the Social Democrats began a period of successful coalition minority government, because: (a) it had adjusted to its new role; and (b) it could now negotiate with three different parties to produce different policies, who (c) had more incentive to cooperate than bring the government down (because the alternative for left-wing parties was non-socialist minority government); and (d) could engage in cooperation without undermining their electoral profile (2001: 64-5). Most parties have recognised that minority government is still the long-term norm and have adapted accordingly: the ruling minority by making concessions to many parties, and formerly extreme parties adapting to their new policy-influencing rather than oppositional roles. The post-1973 rejection of the norm that a government that loses a vote in parliament must resign has also aided minority stability (Seyd, 2002: 128).

While this adaptation took over twenty years to materialise in Denmark, a country with a long tradition of minority government, there are several reasons to think it could happen quicker in Scotland. First, in contrast to the polarisation of parties in Denmark, the Scottish party system is better characterised as a form of moderate pluralism (Bennie and Clark, 2003). There are no far right parties, while the far-left Scottish Socialist Party has

never enjoyed enough representation to sway a parliamentary vote. In other words, there is no need (at least yet) for a minority government to make concessions to a wide range of disparate parties. Second, there may be fewer fundamental issues to polarise party opinion. Although the issue of independence sets the SNP apart from the three other major parties, the sub-national Scottish Parliament is not yet responsible for the big economic questions (fiscal and monetary policy; redistribution and benefits), or many other big issues that could produce significant conflict (such as defence policy). Third, the biggest loser, Labour, has had time to prepare and adjust to its new position through eight years of coalition majority government. Although it has yet to find a clear role in opposition (in part because of its complex ties to a UK Labour government – see Cairney, 2010), it appears more open to the prospect of its own period of minority government (particularly if Labour loses the UK election in 2010). Finally, the Conservatives (with no real prospect of forming a government) appear increasingly comfortable with the idea of influence in opposition. In short, minority government could quickly become the norm in Scottish politics and Scottish parties could adapt relatively easily (particularly if compared to the UK).

On the other hand, Strøm (1990: 106) relates the durability of minority government in Denmark to a process in which the government makes a series of policy-specific and significant legislative concessions to various parties in exchange for their support (see also Qvortrup, 2000 who links this ‘search for consensus’ to the ability of the Folketing to refer a bill to referendum if the move receive supports from one-third of its membership). While we can see some evidence of this process in Scotland during the annual budget, the amount of negotiation appears to be low and it is not replicated across the board. Rather, the opposition parties wait for government legislation to appear and then engage in the same kind of scrutiny performed from 1999-2007. There is little evidence of pre-legislative negotiation or scrutiny. In these terms, it is difficult to see Scotland emulating Denmark’s propensity for minority government if its parties, and the Liberal Democrats in particular (see Paun, 2009: 54), seek policy influence as well as electoral success.

Conclusions

New politics is in some senses a heavy chain around the neck of Scottish politics, producing unrealistic expectations and therefore skewed evaluations of the success of new political practices. In the absence of such expectations, this paper may have come to different conclusions about the first eight years of coalition government which provided *some* examples of new parliamentary influence, the ability of committees to be ‘businesslike’ and the ability of Scottish Executive ministers to negotiate and compromise rather than dominate Parliament. Similarly, we should be careful not to judge the early experience of minority government too harshly. Although ‘new politics’ as originally envisaged has not materialised (again), the arrangements have so far proved to be relatively stable, while the SNP has demonstrated an impressive degree of policy coherence and governing competence. Minority government is likely to last for at least the full parliamentary term, while there is a significant chance that it may become the norm. Many teething troubles have healed – and maybe this is what stable minority government really looks like. The main caveat is that the first two years were marked by

high SNP popularity, suggesting that it would not be in the interests of the opposition parties to destabilise minority government – particularly since they may be held responsible and would need to fund an extra, expensive, election campaign. It is therefore difficult to attribute the new system to a powerful new norm when an explanation based on party self-interest is just as convincing.

Equally unclear is the effect that minority government has on public policy. Eight years of coalition government largely produced a policy agenda driven by the government. Three years of minority government has produced a new relationship between the Scottish Government and Parliament, but this is not based on the eagerness on either side to mark a profound shift in responsibility for policy formulation and implementation. The drop in legislative activity from the Scottish Government has not been met with an equivalent rise from Parliament. Committees have not produced more agenda setting inquiries. Rather, the Parliament has become a forum for limited policy concessions based largely on the (usually uncontroversial) Government legislative agenda and the limited ability of the opposition parties to monitor Government policy activity that is not brought to parliament for regular approval. We may find evidence of parliamentary power in other areas – such as in the anticipated reactions of the SNP when deciding which bills to pursue and when civil servants developing policy pay heed to what they perceive to be the parliament's (as well as the minister's) 'mind'. However, this is an area of public policy that has not been researched in great depth either in Scotland or in the comparative literature (instead, the focus is on negotiation between parties). From the limited evidence that we have, it is difficult to identify enough policy influence for opposition parties to give them an incentive to eschew public office when it is available. This is not really an issue for the Conservatives who are not likely to be offered the chance to form a government and will therefore benefit more from minority government. However, the lack of policy influence enjoyed by the Liberal Democrats since 2007 seems to diminish the probability that it will accept minority government in the future.

References

- Arter, D. (2002) 'On Assessing Strength and Weakness in Parliamentary Committee Systems: Some Preliminary Observations on the New Scottish Parliament', *Journal of Legislative Studies*, 8, 2, 93–117.
- Arter, D. (2003) *The Scottish Parliament: A Scandinavian Style Assembly?* (London: Frank Cass)
- Arter, D. (2004) 'The Scottish Committees and the Goal of a "New Politics": A Verdict on the First Four Years of the Devolved Scottish Parliament', *Journal of Contemporary European Studies*, 12, 1, 71–91
- Arter, D. (2006) 'Introduction: Comparing the legislative performance of legislatures', *Journal of Legislative Studies*, 12, 3, 245–57
- Bennie, L. and Clark, A. (2003) 'Towards moderate pluralism: Scotland's post-devolution party system, 1999–2002', *Journal of Elections, Public Opinion & Parties*, 13, 1, 134 – 155
- Cairney, P. (2006) 'The Analysis of Scottish Parliament Committees: Beyond Capacity and Structure in Comparing West European Legislatures', *European Journal of Political Research*, 45, 2, 181–208

- Cairney, P. (2006b) 'The Scottish Parliament' in (ed) P. Jones *Scotland Devolution Monitoring Report January 2006* (London: The Constitution Unit)
- Cairney, P. (2007a) 'Using Devolution to Set the Agenda? Venue Shift and the Smoking Ban in Scotland', *British Journal of Politics and International Relations*, 9, 73–89
- Cairney, P. (2007b) 'Public Policies', in A. Paun (ed.), *Scotland Devolution Monitoring Report September 2007* (London: The Constitution Unit)
- Cairney, P. (2007c) 'The Scottish Parliament', in A. Paun (ed.), *Scotland Devolution Monitoring Report September 2007* (London: The Constitution Unit)
- <http://www.ucl.ac.uk/constitution-unit/research/devolution/devo-monitoring-programme.html>
- Cairney, P. (2008a) 'Has Devolution Changed the British Policy Style?', *British Politics*, 3: 3, 350-72
- Cairney, P. (2008b) 'The Scottish Parliament', in C. Jeffery (ed.), *Scotland Devolution Monitoring Report January 2008* (London: The Constitution Unit)
- Cairney, P. (2008c) 'The Scottish Parliament', in N. McEwen (ed.), *Scotland Devolution Monitoring Report May 2008* (London: The Constitution Unit)
- Cairney, P. (2008d) 'The Scottish Parliament', in C. Jeffery (ed.), *Scotland Devolution Monitoring Report September 2008* (London: The Constitution Unit)
- Cairney, P. (2008e) 'Public Policies', in C. Jeffery (ed.), *Scotland Devolution Monitoring Report September 2008* (London: The Constitution Unit)
- Cairney, P. (2009a) 'Implementation and the Governance Problem: A Pressure Participant Perspective', *Public Policy and Administration*, 24, 4, 355-77
- Cairney, P. (2009b) 'An Opposing Point of View', *Holyrood Magazine*, 9th March
- Cairney, P. (2009c) 'Scottish Parliament and Parties', in P. Cairney (ed.) *Scotland Devolution Monitoring Report January 2009* (London: The Constitution Unit)
- Cairney, P. (2009d) 'Scottish Government and Public Policy' in P. Cairney (ed.) *Scotland Devolution Monitoring Report May 2009* (London: The Constitution Unit)
- Cairney, P. (2009e) 'Scottish Parliament and Parties' in P. Cairney (ed.) *Scotland Devolution Monitoring Report May 2009* (London: The Constitution Unit)
- Cairney, P. (2009f) 'Scottish Parliament and Parties' in P. Cairney (ed.) *Scotland Devolution Monitoring Report September 2009* (London: The Constitution Unit)
- Cairney, P. (2009g) 'Scottish Government and Public Policy' in P. Cairney (ed.) *Scotland Devolution Monitoring Report September 2009* (London: The Constitution Unit)
- Cairney, P. (2010) 'Intergovernmental Relations in Scotland before and after the SNP', Political Studies Association Annual Conference, Edinburgh
- <http://www.psa.ac.uk/2010/PanelDetails.aspx?PanelID=115>
- Cairney, P., Halpin, D. and Jordan, G. (2009) 'Interest Groups and the Scottish Parliament' in C. Jeffery and J. Mitchell (eds.) *The Scottish Parliament, 1999-2009: The First Decade* (Edinburgh: Luath Press)
- Davidson, L. (2008) 'SNP 'abuse' of executive power is making Holyrood irrelevant, say angry opposition', *The Times* November 21
- <http://www.timesonline.co.uk/tol/news/uk/scotland/article5209490.ece>
- Green-Pedersen, C. (2001) 'Minority Governments and Party Politics: The Political and Institutional Background to the "Danish Miracle"', *Journal of Public Policy*, 21, 1, 53-70

- Hampsher-Monk, I. and Hindmoor, A. (2010) 'Rational Choice and Interpretive Evidence: Caught Between a Rock and a Hard Place?', *Political Studies*, 58, 1, 47-65
- Harvie, C. (2008) 'A Year with Salmond', *Scottish Affairs*, 65, Autumn http://www.scottishaffairs.org/onlinepub/sa/harvie_sa65_autumn08.html
- The Herald (9.9.09) 'Parliament supports state-funded lawyers at children's hearings' <http://www.heraldscotland.com/news/politics/parliament-supports-state-funded-lawyers-at-children-s-hearings-1.918795>
- Jordan, A.G. and L. Stevenson (2000) 'Redemocratizing Scotland. Towards the Politics of Disappointment?', in A. Wright (ed.), *Scotland: the Challenge of Devolution* (Aldershot: Ashgate)
- Maddox, D. (2009a) 'SNP crackdown on discount alcohol is delayed by a year', *The Scotsman* 11 March <http://news.scotsman.com/politics/SNP-crackdown-on-discount-alcohol.5058108.jp>
- Maddox, D. (2009b) 'SNP and Labour close in on drinks alliance', *The Scotsman* 27 March <http://news.scotsman.com/politics/SNP-and-Labour-close-in.5115305.jp>
- Macleod, A. (2009) '“Day of shame” taunt as Labour scuppers minimum pricing for alcohol', *The Times* November 27 <http://www.timesonline.co.uk/tol/news/uk/scotland/article6934245.ece>
- Mattson, I. and Strøm, K. (2004) 'Committee Effects on Legislation', in H. Döring, and M. Hallerberg (eds), *Patterns of Parliamentary Behaviour* (Aldershot: Ashgate)
- McCrone, D. and B. Lewis (1999) 'The 1997 Scottish Referendum Vote', in B. Taylor and K. Thompson, *Scotland and Wales: Nations Again?* (University of Wales Press).
- McGarvey, N. and Cairney, P. (2008) *Scottish Politics* (Basingstoke: Palgrave)
- McIver, I. and Gay, O. (2008) 'The new Scottish Government', House of Commons SN/PC/04593 <http://www.parliament.uk/commons/lib/research/briefings/snpc-04593.pdf>
- Mitchell, J. (2008) 'Minority governments, constitutional change and institutional cultures in Scotland' in A. Brazier and S. Kalitowski (eds.) *No Overall Control? The impact of a 'hung parliament' on British politics* (London: Hansard Society)
- Mulholland, H. (25.5.07) 'Labour minority rule for Wales', *The Guardian* <http://www.guardian.co.uk/politics/2007/may/25/wales.devolution>
- Muller, W.C. and Strøm, K. (2003) 'Coalition Governance in Western Europe: An Introduction' in (eds) Muller, W.C. and Strøm, K. *Coalition Governments in Western Europe* (Oxford: Oxford University Press)
- Osmond, J. (ed.) (2000) *Devolution Relunched: Monitoring the National Assembly December 1999 to March 2000* (Institute of Welsh Affairs) <http://www.ucl.ac.uk/constitution-unit/research/devolution/dmr99-05.htm>
- Paun, A. (2009) 'Learning from Scotland's Parliament of Minorities' in (eds) R. Hazell and A. Paun *Minority Report: Hung Parliaments and the Challenges for Westminster and Whitehall* (London: Constitution Unit and Institute for Government)
- Peterkin, T. (2009) 'Labour rivals hit out at 'work-shy' First Minister', *The Scotsman* 19th April <http://news.scotsman.com/politics/Labour-rivals-hit-out-at.5183893.jp>
- Qvortrup, M. (2000) 'Checks and Balances in a Unicameral Parliament: The Case of the Danish Minority Referendum', *Journal of Legislative Studies*, 6, 3, 15-28
- Scott, D. 'Government beyond the centre' in P. Cairney (ed.) *Scotland Devolution Monitoring Report May 2009* (London: The Constitution Unit)

Scottish Constitutional Convention (1990) *Toward's Scotland's Parliament* (Edinburgh: SCC)

Scottish Council Foundation (2002) *Rethinking Representation* www.scottishcouncilfoundation.org/pubs_more.php?p=63&go=1

Scottish Constitutional Convention (1995) *Scotland's Parliament: Scotland's Right* (Edinburgh: Convention of Scottish Local Authorities)

Scottish Government (2010) 'Ministerial Code complaint' <http://www.scotland.gov.uk/News/Releases/2010/01/22165654>

Scottish Office (1998) *Shaping Scotland's Parliament: Report of the Consultative Steering Group on the Scottish Parliament* (Edinburgh: Scottish Office)

Seaton, N. and Osmond, J. (2005) 'Assembly Government' in J. Osmond (ed.) *Wales Devolution Monitoring Report April 2005* <http://www.ucl.ac.uk/constitution-unit/research/devolution/dmr99-05.htm>

Shephard, M. (2004) The Scottish Parliament in (ed) J. Mitchell *Nations and Regions: The Dynamics of Devolution August 2004* (London: The Constitution Unit) <http://www.ucl.ac.uk/constitution-unit/research/devolution/dmr99-05.htm>

Shephard, M. and P. Cairney (2005) 'The Impact of the Scottish Parliament in Amending Government Legislation', *Political Studies*, 53, 2, 303–19

Strøm, K. (1990) *Minority Government and Majority Rule* (Cambridge: Cambridge University Press)

Wyn Jones, R. and Scully, R. (2006) 'Summary and Introduction' in Wyn Jones, R. and Scully, R. (eds.) *Wales Devolution Monitoring Report January 2006* <http://www.ucl.ac.uk/constitution-unit/research/devolution/dmr99-05.htm>

Seyd, B. (2002) *Coalition Government in Britain: Lessons from Overseas* (London: The Constitution Unit) <http://www.ucl.ac.uk/constitution-unit/publications/unit-publications/84.html>

ⁱ In 2007 the SNP chose the term 'Scottish Government' to describe its administration. From 1999-2007, and despite the best efforts of former First Minister Henry McLeish, it was the Scottish Executive. The Scotland Act 1998 refers to the 'Scottish Administration'. The former UK Government department in Scotland was called the Scottish Office, while the current body which acts as an intermediary between the Scottish Government and UK Government is the Scotland Office.

ⁱⁱ Strøm (1990: 237) argues that minority governments are common, not aberrations, and that they may result from rational strategic calculations rather than 'as a consequence of political instability, conflict and malaise'.

ⁱⁱⁱ Although note that the norm of power-sharing in the Northern Ireland Assembly is not comparable.

^{iv} While the strain on the Scottish Parliament's Non-Executive Bills Unit (NEBU) was used by the Procedures Committee and 4 main parties to justify reforming the rules on member's bills to make it harder to introduce them (Shephard, 2004: 7), there was some suspicion that this was designed to stop the smaller parties such as the SSP setting the agenda (Cairney, 2006b: 30). Yet, there is still an issue of capacity – see D. Maddox 5.10.09 'Bureaucrats tell MSPs: We can't cope with draft bills workload' *The Scotsman* <http://news.scotsman.com/politics/Bureaucrats-tell-MSPs-We-can39t.5702505.jp>

^v Two were budget bills, four – preparing for the commonwealth games, reforming the judiciary and courts, reforming public health law, revising the law on sexual offences – were inherited, three - on asbestos-related compensation (which arose unexpectedly following a House of Lords ruling), convention rights (following a Lords ruling on stopping out), decoupling local and Scottish Parliament elections - arose unexpectedly in the course of the Parliament. This leaves six bills – abolishing bridge tolls and the

graduate endowment, introducing health board elections, addressing climate change, addressing additional support needs in education, updating flood prevention legislation – that can be traced directly and meaningfully to the SNP manifesto. The Creative Scotland bill was rejected by the Scottish Parliament, perhaps by accident. There have also been three members' bills (offences aggravated by prejudice, disabled parking, tartan) and one committee bill (parliamentary pensions).

^{vi} See Holyrood.com 28.6.08 'Labour launches plans for private members bills'

<http://www.holyrood.com/component/content/article/68-scottish-parliament/1719-%20>

^{vii} Note that this policy, while popular, also met opposition from interest groups and UK government which refused to modify the rules on council tax benefit (amounting to £4-500m) to accommodate the new policy. Parliamentary opposition, along with the uncertainty over funding (particularly since the Scottish Government was preparing in public for a further loss of £500m from its budget), was cited by Finance Secretary John Swinney as the reason to withdraw the policy (Scott, 2009: 75).

^{viii} A similar example of Labour and Liberal Democrat bafflement and miscalculation regarding the effects of its negative role can be found in the failure of the Creative Scotland Bill (Cairney, 2008d: 15).

^{ix} Is this understanding of UK politics undermined by the attempt in Wales in 2007 to form a rainbow coalition? There were also other considerations for Scottish Labour - UK Labour was very unpopular and it would have been difficult to justify an attempt at a third period in office. This would depend on the almost impossible task of portraying an increasingly popular SNP as dogmatic and relatively unable to govern.

^x Note that a vote of no confidence in the government passes with an absolute majority and the government must resign. However, an extraordinary election is not automatic. This only happens if a First Minister is not nominated in the next 28 days or if two-thirds of the Scottish Parliament votes for an election. The Scottish Government does not have the power to dissolve the Scottish Parliament.

^{xi} .1) the extent to which the legislature initiated and enacted measures independently of the executive; 2) the extent to which major public policies were initiated and enacted by the legislature; 3) the extent to which the legislature acted to alter or reverse executive initiatives even in the teeth of executive opposition; 4) the extent to which the legislature acted to alter or reverse executive initiatives on important policy matters'

^{xiii} It has permanent and specialized committees with relatively small numbers of members, a proportional (by party) number of convenors (chairs) selected by a committee, committee deliberation both before the initial and final plenary stages, the ability to initiate and redraft bills as well as invite witnesses and demand government documents (including the role of monitoring pre-legislative consultation)