

Devolution in Wales 1997-2010: Interpreting the process and the neo-functional method

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Introduction

Ron Davies famously referred to devolution in Wales as ‘a process rather than an event’ (Davies, 1999); one where although it should initially be premised on the basis of secondary legislative powers it should ultimately address the prospect of primary legislative powers. Between 1997 and 2010 this process was traversed. The Government of Wales Act, 1998 establishing the National Assembly of Wales in 1999 almost immediately became the subject of renewed constitutional debate. It began with the review of Assembly procedure in 2001-2002. This was followed by the landmark work of the Richard Commission, which was established in 2002 and reported in 2004. Subsequently, in 2006 a second Government of Wales Act was passed that reformed the legal status, powers and electoral system of the Assembly. One of the provisions of the 2006 Act was that a referendum could be triggered on whether the Assembly should have primary legislative powers. After a report by an All Wales Convention, chaired by Sir Emyr Jones Parry, in favour of holding a referendum, the Assembly passed an affirmative motion in February 2010. A referendum was then expected to be held by the time of the 2011 Assembly elections. The question is how should this process of constitutional development to the point at which the case for primary legislative devolution was to be addressed for the first time be interpreted? This is the question that is addressed in this paper.

The paper is in three sections. First, it provides a clarification of the course of constitutional development between 1997 and 2010 as a basis for analysis. Section two then revisits the neo-functionalist perspective developed in an earlier paper for the comparative analysis of the dynamics of sub-state regionalisation (see Bradbury, 2003). It considers the ways in which categories of neo-functionalist analysis help to

explain the origins of the process of Welsh devolution, and how in turn the Welsh case lends validity to this comparative approach to analysis. Section three then explores how this approach provides a framework for interpreting the process of devolution in Wales from 1997-200. At the same time it considers the politics of ownership of the devolution process. A neo-functionalist analysis privileges the activities and operations of political elites in stimulating the decisive dynamics of devolution. There is nevertheless scope for conflict among political elites who wish to drive the process according to both their own particular values and interests, and this section addresses the nature and results of this competition. One of the key features of Welsh politics was that the development of constitutional debate occurred in the context of changing political executives. The Assembly witnessed periods of minority (1999-2000, 2007), coalition (2000-2003, and 2007-present) and majority (2003-2005) government. Nevertheless, the Labour Party's dominant role in the Executive has been a constant feature, with a succession of Labour first ministers, Alun Michael (1999-2000), Rhodri Morgan (2000-2009), and Carwyn Jones (2009-present). Consequently, a key part of the analysis throughout the paper involves assessing the role of the Labour Party.

The paper seeks to avoid normative discussion of the rights and wrongs of specific proposals for devolution, the electoral system of the Assembly and the Labour Party. It seeks to address how and why the process of devolution occurred in the way that it did, rather than whether it went well. It is likely that some scholars will object to the general orientation of the analysis, but it is hoped that the paper provides at least some insights that might be absorbed in other forms of analysis.

1. Devolution and constitutional development in Wales 1997-2010

The National Assembly for Wales was established by the Government of Wales Act, 1998, following a yes vote, albeit by a small margin, in a referendum in September 1997. The Act devolved powers from Westminster to the National Assembly as a corporate body. The Assembly then delegated its powers to secretaries (later ministers) but the Assembly retained legal responsibility for decisions carried out in its name. At the same time, however, the Act provided for a style of government based on Cabinet decision-making, with subject committees to cover each of the ministerial portfolios, having both policy making and scrutiny roles. This conceptualisation of how the Assembly would operate as an institution reflected a blending of two models influential during the creation of the Government of Wales Act: a committee-based style of decision-making; and a cabinet decision-making style with plenary and committee having deliberative and scrutiny roles. The former model remained influential in the conceptualisation of the assembly as a corporate body and the hoped-for roles of committees. The latter model ultimately determined the operation of an executive in the Assembly

In considering the powers devolved to the assembly it is important to recognise that 1997-1999 did not represent a year zero. A process of administrative devolution can be traced back to the beginning of the 20th century, but the most significant starting point came with the creation of the Welsh Office in 1964. This operated as a department of central government, headed by a secretary of state, who was a Westminster MP and appointed by the prime minister as part of the UK Government. Between 1964 and 1997 the Welsh Office accrued responsibility for the exercise of a variety of central government powers as they related to Wales. It was the exercise of

these powers that were devolved to the Assembly by the 1998 Act. It meant that the Assembly did not have primary legislative powers or tax raising powers. Instead it received the secondary legislative and executive powers previously exercised by the secretary of state for Wales and junior ministers as part of central government implementation of Westminster primary legislation. Duly the bulk of the civil servants who had worked in the Welsh Office now transferred to working for the assembly, albeit still as part of the UK civil service. The renamed Wales Office remained as a rump department of central government to help manage relations between central government and the Assembly.

The Assembly was composed of 60 members, elected by a mixed member semi-proportional electoral system. This provided for 40 members elected by simple plurality from single member constituencies and 20 members elected from party lists, four each from five electoral regions. The Dhondt method was used in allocating regional list seats to make the results in each of the electoral regions more proportional than provided for simply by the single member constituency results. Dual candidacy for constituency and list election were to be allowed, but the Government of Wales Act said little more about the expected roles of members, except to say that the role of list members was to make the overall result more proportional. The first elections were held in May 1999, with provision for fixed elections every four years thereafter.

Consideration of the future status, powers and electoral arrangements of the National Assembly started within two years of those first elections. An Assembly review of internal procedures began in January 2001 and reported in February 2002. It

concluded that a key principle in the 1998 Government of Wales Act, establishing the Assembly as a corporate body was flawed. It recommended that as far as the Assembly was legally allowed it should operate on the basis of a clear separation between executive and legislature. There was all-party agreement on these findings and in March 2002 there was a formal division between the Assembly and what was now termed the Welsh Assembly Government, with civil service staff equally separated between those under the charge of the presiding officer of the assembly and those working for the Government. To those intimate with earlier debates this clarified the conceptualisation of the assembly as a parliamentary style body and informed the practice of devolution thereafter.

At the same time, there was considerable debate about the development of the powers of the Assembly. Some developments raised concerns about the nature of the devolution settlement. In particular, as new primary laws were passed at Westminster relating to Wales this inevitably impacted on the listed secondary legislative and executive powers at the disposal of the National Assembly. This led to potential problems of unevenness and irrationality in what powers the Assembly had; they merely reflected the continuing outcome of a variety of Westminster Acts conceived in a fragmented manner. Equally, there was the potential problem that Assembly members would simply become confused as to what powers they had, or indeed they would find that over time their powers were being reduced by Westminster Acts for England and Wales that took no account of devolution. Comparisons with the Scottish Parliament emphasised what the Assembly could not do legislatively without primary powers (see Rawlings, 2003). There was nevertheless a body of opinion that suggested that problems were exaggerated. Labour Party ministers defending the

practical working of the settlement suggested that there was little that they had wanted to do that they had found that they could not. An important facility was that the Welsh Assembly Government was able to lobby like a central department for the placement of primary Wales-only bills in the Westminster legislative timetable. The Assembly successfully initiated major primary legislation on such issues as health care, transport and child protection through Westminster Wales-only acts or Wales-only clauses in England and Wales acts. Nevertheless, the powers of the Assembly fairly rapidly became a major issue of constitutional debate.

The way forward on debating change in this and other areas of the original devolution settlement was given a major impetus by the Labour-Liberal Democrat coalition deal in September 2000. One of the results of the partnership agreement was the creation of a commission, chaired by Labour peer, Lord Richard. It began its deliberations in 2002 and after lengthy evidence taking sessions, academic seminars and public consultations it issued its report in March 2004 (Richard, 2004). The report made three key recommendations. First, it confirmed the consensus on the desire to end the legal conceptualisation of the Assembly as a corporate body and to provide a statutory basis for the separation of executive and assembly. Secondly, it commented favourably on the Assembly's usage of its powers so far and concluded on the problems associated with pushing at the limits of its existing powers. The report advocated the enhancement of secondary legislative powers as an interim measure but equally advocated clearly a move towards the Assembly receiving primary legislative powers. The timetable for this was not immediate but it was nevertheless a clear stated goal. The Report rehearsed the arguments over the Assembly having fiscal powers but concluded with no clear view. It was left open as to whether the move to

primary powers should require the holding of a further referendum. Finally, the Richard Report considered the many views on the operation of the electoral system and concluded that not only would the number of Assembly Members have to rise to 80 to take account of their enhanced responsibilities, but also they should be elected on the basis of the single transferable vote method. On all fronts the Richard Report provided for a radical revision of the 1998 Government of Wales Act which nevertheless would be phased in gradually. The overhaul was to be expected to be completed between 2010 and 2013.

There was strong support in elite circles for the adoption of the Richard Report, led by the pressure group *Tomorrow's Wales*, as well as from the Liberal Democrats and Plaid Cymru. Nobody questioned the proposals relating to the legal status of the Assembly. There were differences of views, however, on the other two sets of proposals. While many opposition voices advocated the full implementation of the Richard Report the Labour Party voiced different opinions. Labour First Minister, Rhodri Morgan, was a clear supporter of moving towards primary powers though not of STV. A majority of Labour MPs in Wales were sceptical of supporting a new settlement. A majority of Labour party members supported the development of devolution but they did not wish to be seen to be following a nationalist timetable. Ted Rowlands, the former MP and Labour member of the Richard Commission, had provided the one note of minority dissent in the Richard Report in saying that while he did not disagree with the arguments in the Report he saw no cause for the report's recommendations being implemented now. Both Labour AMs and members were deeply sceptical of the introduction of STV. Instead they wanted protection from what they saw as the unfairness of defeated opposition constituency candidates still

getting elected as list members and then behaving as though they were constituency members in offering local services ahead of future elections.

The raising of the constitutional question and the divided responses to it potentially raised significant problems for Labour both in the run-up to the 2005 general election and in its aftermath. In the circumstances the strong political relationship between the Morgan administration and Peter Hain appeared to broker a workable approach to developing the assembly which finessed reformist aspirations with Labour scepticism. In Autumn 2004 Labour's policy response, *Better for Governance for Wales*, confirmed that there was a consensus on the proposal to change the legal status of the assembly. However, on powers it dissented from the clarity of Richard's commitment to primary powers. Instead, it proposed that Westminster henceforth apply a convention to grant maximum discretion to the Assembly in implementing England and Wales laws and that the Government would prepare a white paper on options for future change including that of primary legislative powers. It further stated that if this latter option was ever considered it would be subject to a fresh referendum. Finally, on electoral reform it ignored Richard altogether, arguing that the 60 member mixed member electoral system should remain, with the revision that candidates should not be allowed to stand for both constituency and list seats. This was an attempt to remove the incentives for list members to target their work in competing for future constituency seats (Wales Labour Party, 2004).

On the central issue of powers *Better Governance for Wales* was essentially an attempt at providing an interim Richard Report for the Real World. Whilst playing to gradualist and sceptical opinion on the pace of change and in turning down the STV

proposal, Hain and Morgan sought to gain both Labour Party and public support for a policy, the underlying logic of which was still profoundly devolutionist. In the immediate pre-election period Morgan and Hain were attacked for failing to provide leadership and face down devo-sceptics. Plaid Cymru made an apparent lack of clarity in Labour's constitutional policy a major plank of their 2005 election campaign. Nevertheless, while Welsh Labour MPs and broad Labour member opinion were pleased by its gradualism, and specifically the promise of a further referendum if there was to be further change, leading Labour pro-devolutionists both at Westminster and Cardiff Bay publicly acknowledged its general intentions to take devolution forward. The constitutional issue was thus effectively neutralised as an election issue in 2005.

Following the election the Wales Office published the much-awaited white paper, also called *Better Governance for Wales* (Wales Office, 2005). This confirmed much of Labour's pre-election policy, the key additions being on the issue of the Assembly's powers. The convention of new Westminster legislation granting the Assembly maximum discretion could be given immediate effect. To this was to be added a procedure by which the National Assembly could request Parliament to pass orders in council allowing the Assembly to modify any past primary legislation as it applied to Wales as well. In addition, a mechanism for triggering a referendum on primary powers was proposed by which a 2/3 majority of Assembly Members was required to initiate it, although it would require the support of Westminster as well before it was held. For these proposals as well as the change of legal status and electoral reform proposals a new government of Wales act was required. The bill was published in December 2005.

After the extensive debate that followed the issue of the Richard Report in 2004, deliberation of the actual White Paper proposals in 2005 was somewhat muted. Criticism that Labour's proposals were half-baked and left the Assembly's powers vulnerable to the whims of central government remained. But essentially the White Paper did much in the breach of what the Richard Report had asked for in principle. It provided in an interim period for a significant broadening of secondary legislative powers. This focused on the idea of establishing a convention that any new primary legislation affecting Wales would give the Assembly framework powers to apply the law with maximum discretion. At the same time to facilitate Assembly autonomy with respect to legal powers that the Assembly actively wanted the fast-track mechanism that was agreed focused on the Assembly's right to apply for legislative competence orders that once agreed by the House of Commons would provide the statutory basis for the Assembly to pass its own quasi primary law, known as measures. The Act also provided a specific mechanism for the move to primary powers, under which a referendum could be held if 2/3 of Assembly members passed a motion in favour of it and if it was agreed by the House of Commons. While Rhodri Morgan was firm in saying he did not believe a referendum would be won now, implicitly the prospect of primary powers was being laid down as not a case of if but when. Campaigners for further devolution simply switched to strategies for triggering a referendum.

In this context the principle focus for dispute became merely the proposed reform of the electoral system. Labour were accused of leaving themselves open to the perception of partisanship in abolishing dual candidacy. The merits of this reform are

open to debate. Nevertheless, it was the only issue upon which members of the Welsh Affairs Committee divided on strictly party lines in their final report on the White Paper also published in December (House of Commons, 2005). Consequently, the 2006 Government of Wales Act provided for the statutory confirmation of the separation of executive and assembly, interim reform of the secondary powers of the Assembly combined with a mechanism for moving towards primary powers, and a revision of the mixed member electoral system to take away the right to dual candidacy. It was not quite what the Richard Report advocated but it was still a significant development from the 1998 Government of Wales Act.

The 2007 elections then witnessed the implementation of the revision to the electoral system, with no candidates standing for both constituency and lists. In practice, criticism of the abolition of dual candidacy disappeared almost completely.

Following the elections the statutory separation of the Welsh Assembly Government and the Assembly and the introduction of the new legislative procedures were then fully implemented, with significant implications for how the Assembly organised its business as a legislature. A key part of Assembly business became the introduction by the Assembly Government and backbench AMs of draft legislative competence orders (LCOs), their scrutiny and agreement; as well as the introduction, scrutiny and passage of Assembly Measures to pass new law into statute on the basis of agreed LCOs. A key issue after the 2007 National Assembly elections was also the approach to be taken to triggering a referendum vote on primary powers. This was an issue that was addressed as part of the One Wales Agreement between the Labour Party and Plaid Cymru in forming a coalition government in 2007. They established an all Wales convention to assess opinion on the issue across Wales. This reported in

November 2009, acknowledging certain problems and issues but overall in favour of moving to a referendum. Subsequently, an Assembly vote on the issues was won 53-0 in February 2010 in support of this move. Acknowledgement by both the Labour and Conservative parties at the UK level that the will of the Assembly should be acceded to whatever the outcome of the 2010 UK General Election mean that a referendum is expected to occur at some time before the 2011 National Assembly elections.

The debate on the development of devolution between 1997 and 2010 was in some ways a rapid one; in others a complicated and tortuous one. The question now is how should we interpret what caused this process of developing devolution. What were the dynamics of sub-state regionalisation in Wales that brought the Assembly from being simply an idea in reformers minds on the basis of secondary powers to the platform of debating an Assembly with primary legislative powers?

2. Interpreting the process and the origins of devolution in Wales

This paper starts from the assumption that it is profitable to assess the dynamics of devolution comparatively primarily from an institutional perspective: that institutions matter in causing political development and that the pressures of institutionalisation add substance and form to further patterns of development along the same path. In crude terminology this privileges top-down analysis over bottom-up analysis; the interests and activities of elites are more significant than those of the masses; and institutional motivation, while influenced by ideas also represents the assertion of power interests. One way of analysing the dynamics of devolution in these terms in a more precise manner is to borrow from European supra-state approaches to

regionalisation. These have assumed the need to adopt a top down approach to analysis that privileges the importance of institutions and processes of institutionalisation.

At the macro level there are essentially three competing theories of European integration. The first of these is federalism, which has sought to draw a relationship between ideals and political development; federalists have advocated big bang, constitutionalised leaps forward in integration. Second, there is neo-functionalism, which has considered the development of integration more in terms of the assertion of functional economic and social interests at the supra-state level combined with the political impetus given by a cohesive pro-integration elite; neo-functionalists have been more pessimistic about the support for integration and therefore sought gradualist methods for developing integration. The approach asserted the need to consider two particular foci of analysis. First, there was a need to review the strength of the background conditions to regionalisation. The assumption was that whilst these must provide some encouragement to the potential for regionalisation they were in various ways problematic. Second, in that strong political leadership was required to group processes favouring regionalisation, there was a key need to identify the strategies employed in cultivating regionalisation. Policy spillover became the most famous strategy identified with the integration process, but it was not the only one potentially available. The final key macro-framework for analysing European supra-state regionalisation is inter-governmentalism, which has considered integration more in terms of the interests of member states; that inter-state bargains are the root of developments in integration, making them less consistent both in scope and direction.

If one translates these approaches to the sub-state context and the particular case of Wales ideas-based and intergovernmentalist approaches to understanding elite dynamics both have a weak purchase on explanation. The optimism of nationalism (analogous to European federalism), making appeals to the Welsh electorate for sub-state regionalisation on the grounds of national ideals and identity for large leap forwards in devolution, was extinguished by the failure of the 1979 referendum. Inter-governmentalism, in this case asserting the motor of the UK centre to developing Welsh devolution, is an approach that can become important. But in the case of European integration, even intergovernmentalists assert that it became the principal motor of integration only as time went on. In the UK case it is clear that other things being equal the central state would have wished to avoid devolution, except in exceptional circumstances like Northern Ireland, for the very reason that it potentially threatened the territorial stability of the state. The idea that it may actively promote further devolution will rely on a substantial settling of expectations about state stability or change of priorities. In the start-up process of devolution for Wales, as for Scotland, one should simply say that the Centre has allowed sub-state regionalisation to develop without root and branch obstruction. The advantageous context has been that the UK centre was penetrated via the Blair Government by predominantly Scottish territorial elites that made devolution part of the New Labour project. This gave the opportunity for devolutionists in Wales to press their case in 1997 and to seek to develop the process thereafter.

In this context, as Bradbury (2003) argued, adapting a neo-functionalist conceptual framework for analysis is the potentially most useful for developing an understanding of top-down institutional interest causes of sub-state regionalisation. Following this,

the argument here is that there is mileage in applying this framework of analysis to Wales. Specifically, in studying the start-up process of devolution in Wales the neo-functional perspective may be helpful in capturing the problems of promoting regionalisation, and the more pragmatic, gradualist methods adopted to bring about political change in practice. Like European supra-state regionalisation, sub-state regionalisation to a large extent has had to be made rather than simply allowed to flower into existence. The paper, therefore, follows a neo-functional perspective in assessing what prospects there have been for devolution in Wales, and in analysing the process of developing it in terms of methods of elite cultivated regionalisation. Analysis first of all specifies consideration of five key background conditions. If we look at each of these conditions in relation to Wales then we see a mixed picture of the prospects for regionalisation leading to the general point that whilst certain structural contexts are helpful, and some more than others, to initiating and developing devolution, the issue left for elite advocates is more that of the *problems* of structural contexts for devolution rather than their obvious advantages. Let us look briefly at the state of each of these background conditions by 1997 in turn, before commenting on how they developed after 1997.

Background Conditions

(i) Welsh identity

After 1979 there were pressures invoking a stronger and more common sense of Welshness ranging from the community impact of the 1984-1985 miner's strike, the more positive attitude to the Welsh language that followed the birth of S4C, the creation of the Welsh Language Board and inclusion in the national curriculum and the flowering of a strongly Welsh youth popular culture. Nevertheless, Welshness

remained an identity felt only by a proportion of the population, and even among those who felt it there was considerable potential for divisions between those who closely identified Welshness with speaking the language and those who did not. Such divisions were still linked to the geographic division of Wales defined by the three Wales model: British Wales; Welsh Wales and Welsh speaking Wales (Balsom 1983). There were also tensions about where geographically Welsh interests were located specifically in terms of North-South tensions.

(ii) Advanced spatially defined economic and industrial development

Here there were pressures that invoked a more outward looking and Europeanised economy in Wales. Key among these were the policies of privatisation, closure and withdrawal of financial support pursued by the Conservative governments after 1979 which eroded the coal and steel industrial basis to the south Wales economy. Equally, the pull of the development of the European single market and increase in structural funds support after 1988 gave incentives for new policies focused on seeking to attract foreign direct investment as well as place marketing Wales within the European market place as a general help to attempts to dynamise new growth in the private sector. In the sense that more spatially defined economic and industrial development is held to encourage pressures for regional institutions to support that development further, a new political economy of Welsh devolution emerged. Nevertheless, such pressures in the Welsh economy remained problematic. Both public and private sector linkages with the rest of the British economy were very strong, and there were marked divisions between the areas of urban industrial economy and the large swathes of rural economy across mid and West Wales.

(iii) Support among urban industrial elites

As a result, the commitment among urban industrial elites to political change was uncertain. Much did indeed change during the 1980s and 1990s, including greater support for devolution from local government leaders, the trade union and among the business community. Yet, business hardly led the clamour for an elected political institution representing Welsh interests and to govern areas of domestic policy. Opinion in the Labour party became more pro-devolution but also not conclusively so. There remained a sizeable number of party members who were opposed or sceptical about the extent of planned transfers of powers. There were no surveys of public opinion conducted between 1979 and 1997 so it is difficult to know the levels of wider public support for devolution, but the polls that were episodically conducted revealed a great many 'don't knows'. It would be very difficult to put together a concerted case for devolution being a widespread majority choice of Welsh economic elites, political actors or the public as a whole prior to the devolution debates of the early-mid 1990s.

(iv) A Common Welsh ideology

A distinctive ideological outlook has been asserted for Wales that goes back over a century. This may be broadly characterised as a left of centre politics, which strongly asserts the politics of community and social justice. It is reflected first in the Liberal Party hegemony in Wales before the First World War, and then the growing Labour party ascendancy during the 20th century. Following the rise of Plaid Cymru in the 1960s and 1970s, the left of centre became a crowded mid point for Welsh politics, which Labour, the Liberals (later Liberal Democrats) and Plaid Cymru all sought to occupy. It is a politics, distinct from individualistic England that has been claimed to

reflect the social and political values of both Welsh and Welsh Speaking Wales. Such claims were made with much vigour in the 1980s and 1990s. The notion of a common ideology built on such terms, nevertheless, has weaknesses. One can reasonably ask the extent to which it reflects the values of British Wales, covering the urban South-East, the rural Eastern half of mid Wales, which are also all heavily populated by English incomers. More recent survey work has also provided some evidence of the idea that while the values of community and social justice underpin self-definition of a common distinctive Welsh set of ideological beliefs, the real values that people hold are somewhat closer to those held in England than people would like to think.

(v) Dissent from nation-state resolution of disputes

A key criterion for the development of support for a new institutional focus for resolving disputes is the extent of dissent against the former primary focus. In the Welsh case, much has been made of the perception of Thatcherism as an alien force, creating a stronger sense of Welshness and support for devolution because of the development of such a strong common enemy that delegitimised Westminster. Critiques have commonly been based on the imposition of non-Welsh secretaries of state, the undermining of parliamentary conventions over Welsh consultation and the imposition of Thatcherite policies in a country that did not want them. These should be revised. Between 1979 and 1987 Mrs Thatcher did appoint a secretary of state for Wales who was Welsh and the Conservative Party performed creditably well in winning constituencies in both 1979 and 1983. After 1987 the Walker-Hunt era denoted the appointment of relatively non-Thatcherite ministers to the position in Wales. It was only John Major's appointment of John Redwood as secretary of state

in 1992 that truly ushered in what was a relatively brief but nevertheless undiluted manifestation of all those things found alien about Conservative Government.

Redwood was out by 1995 and was followed by William Hague's efforts at soothing Welsh sensitivities. The basis for Welsh dissent occurred but we should acknowledge its specific character.

Overall, therefore, the prospects for bottom-up support for devolution in Wales certainly improved between 1979 and 1997. But making a case for devolution on the basis of national identity was highly problematic and still threatened to reawaken the divisions over identity that handicapped the pro-devolution campaign in 1979.

Developments in political economy, elite and popular opinion, the potential to harness a distinctive common political ideology and grounds for dissent against British government were all such as to make the background conditions for promoting political change more favourable. Nevertheless, they were far from conclusive.

Devolution received the support of less than 20% of those who voted in the 1979 referendum, and there was considerable scepticism as to whether the public would vote yes in 1997. The lack of confidence is illustrated well by the fact those advocating devolution regarded the Labour Government's decision to hold a referendum as effectively a policy to kill devolution. In the event, of course, devolution was only passed in 1997 with a 50.3% yes vote on a turn out of only approximately 50% of the electorate. In such circumstances the strategies adopted by political elites appear to have been critical to a case for political change.

Has much changed in background conditions since 1997. Some analysts may wish to suggest that it has. However, the potential difficulties of identity division remain.

When one looks at elite and popular support for devolution, it should be noted that survey evidence has pointed towards change. Some 80% of the electorate now say that they support devolution. An extension of the Assembly's powers to achieve parity with Scotland is the most popular option. Yet, such developments should not blind us to the basic fact that for much of the period between 1997 and 2010 Wales has remained a clearly divided country over the future of devolution. A long succession of polls have reported a trendless fluctuation around a mid-point finding that approximately 50% of the electorate support an extension of powers or outright independence for Wales, while approximately 50% support the status quo or abolition, or don't know. The chair of the 1997 Yes for Wales campaign put the situation fairly bluntly when he stated in 2001 that the Assembly was unloved and greeted by the public overwhelmingly with apathy and indifference (Morgan, 2001). Little has occurred to substantially change an equivocal commentary of the utility of political economy, Welsh ideology and feelings of dissent against the British state as a place to resolve disputes. The case for the development of devolution has helpful circumstances but in Wales has required substantial efforts at elite mobilisation. This was true even as the all-Wales Convention made its journey round Wales in 2008-09, trying to take the temperature of the nation on further constitutional change.

Party elites and cultivated regionalisation

At the time of the 1997 referendum and preparation of the 1998 Government of Wales Act the form of elite leadership was itself a matter of development. Labour's electoral dominance meant that there was little inclination to collaborate with either Plaid Cymru or the Liberal Democrats. Consequently, strategic leadership was initially internalised to the Labour Party. Between 1992 and 1997 Labour's shadow

secretary of state for Wales, Ron Davies, developed plans totally within the Wales Labour Party. During this period, however, Davies formed a strong political relationship with the Plaid Cymru leader, Dafydd Wigley. This did not imply close inter-party relations as a whole, but provided a personal linkage which helped Davies in his strategic development of proposals in the context of potential scepticism or hostility within his own party. Ultimately, in revising plans ahead of the referendum in September 1997 it appears that part of the reason for deciding upon a mixed member semi-proportional electoral system was to reach out to both Plaid Cymru and the Liberal Democrats. Under the proposed system Labour still expected to gain a majority but it would guarantee greater representation for the other parties than they would have received under a simple plurality electoral system. In this context it was the price of gaining cross-party support for a yes vote in the referendum. The issue of what proposals for constitutional reform were being tabled, however, remained one that was essentially decided within the Labour Party. There was no Welsh equivalent of the Scottish Constitutional Convention. Davies managed to secure agreement within his own party on the bringing forward again of what was in essence the 1979 blueprint for secondary legislative devolution. This was an approach that the other two parties simply had to accept.

What then were the methods of cultivated regionalisation utilised by Labour-led pro-devolution elites in broadening support for devolution and in providing a basis for gradual development amidst uncertain support? These can be discussed under three principal headings.

(i) Functional arguments for devolution

What is striking about the case made for devolution both in Davies' work in his own party, and then later in the cross party referendum campaign is that little reference was made to identity arguments. If identity was discussed it was discussed purely as a new inclusive civic identity. Plaid Cymru acquiesced in omitting reference to the Welsh language. Reference to a civic identity was not going to fire the passion of any potential supporters, but nor was it going to alienate any potential supporters.

Essentially, given the prior problems of division over what signified Welshness the principal concern appears to have been to de-problematise Welshness as an identity. Once this was achieved it allowed more functional arguments tied to strong party cues to turn the many people who were nevertheless Welsh identifiers into yes voters.

Functional arguments were indeed at the core of campaigning for devolution. Davies solidified support in the Labour Party, using arguments in favour of arresting the democratic deficit. Labour's white paper in 1997 promoted devolution positively on the grounds that it would improve governance, democracy, economic development, Wales' place in Europe and public services. 'New politics' was also used powerfully as a functionalist rhetoric to justify devolution as ushering in a new style of politics that was more participatory and stressed a socio-cultural as well as economic focus. Analysis of voting in the 1997 referendum appears to bear out the significance of functional arguments for mobilising affective feelings of national identity into actual support. This was demonstrated explicitly in relation to Scotland, as well as implicitly in relation to Wales (Taylor and Thomson, 1999).

(ii) Methods for Institutional build up

Schmitter (1971) suggested a number of potential strategies for cultivating regionalisation other than the most well-known one of policy spillover. One of these was institutional ‘build-up’, which sought to focus measures on increasing the authority of the new regional form. This appears highly pertinent to assessing the purpose of debates about the nature of the devolution reform to be carried out in 1997-98, and how it may provide a basis for future development. This relates to two aspects of the reform in particular. First, the issue of building up the authority of the assembly was at the heart of the debate about whether it would be conceptualised as a corporate body, with consensual decision-making, based on a powerful committee based decision making system, or whether it would have a division between executive and assembly, with clear leadership vested in a Westminster style Cabinet system. Clearly, reformers, including Ron Davies, initially considered the former approach the best institutional form to gain wider public support and esteem because it departed from Westminster; only fairly rapidly during the debates over the Government of Wales Bill in 1997-98 to realise that this would potentially diminish the authority of the assembly as a local government style institution. Consequently, there was a switch to a cabinet model to suggest that the assembly was after all like Westminster a parliamentary style institution. Ultimately, the legislation left in a melding of both the concept of the assembly as a corporate body, with strong committees, and the model of parliamentary style cabinet leadership.

Second, the decision to have a mixed member electoral system has already been discussed in terms of the politics of promoting devolution. The more long-term consideration, however, was its significance to the authority of the institution. If the assembly had been elected by a simple plurality electoral system it would have had an

in-built long-term Labour majority and very few members on the opposition benches. This potentially could have risked analogies with Labour dominated local councils (the assembly as ‘South Glamorgan County Council on stilts’) and suggested that devolution contained no provision for representative checks and balances in what was of course a unicameral institution. The electoral system selected was designed to counter these problems by giving greater party proportionality to the composition of the assembly, thereby intending to inspire the confidence of the electorate.

(iii) Strategies of Policy and geographical spillover

Policy spillover remains a key potential strategy for cultivated regionalisation. This can occur for a variety of reasons. Principal motors are the realisation that competence in a policy area can only be implemented by actually extending the policy competence; or alternatively, successful use of a policy competence suggests the logical extension of competence. In defining devolution as a process not an event Ron Davies implicitly suggested that both the potential of devolution and the limitations of the initial settlement would only be revealed over time. The dynamics of policy spillover, led both by groups involved in specific policy sectors and institutional political elites, was likely to be a key aspect of that process.

A related aspect was the notion of geographical spillover. This suggested that the process of devolution would be assisted by aspirational comparison with other regions: that policy competences that another region had should be extended to the home one as well. This dynamic appears to have been incorporated in the very promotion of devolution in 1997. The Scottish and Welsh devolution referendums were phased a week apart in September 1997, with the clear intention for the expected

‘yes’ vote in the Scottish referendum to give a knock on effect on the Welsh vote. Thereafter, aspirational comparison with Scotland could form the foundation of justifying moving gradually forwards to an institution with Scottish Parliament style status and powers.

3. Interpreting the process and devolution in Wales 1997-2010

Overall, in the period 1997-98 elite leadership was provided on a mixture of Labour and cross-party bases and all three of these methods of cultivated regionalisation may serve in characterising the activities of those wishing to promote devolution. What occurred thereafter? Here again, the form of elite leadership was a matter for development. Scholars of Welsh politics will know well that following Ron Davies’ dramatic fall from power, the Assembly did not have a leader interested in taking devolution forward until Rhodri Morgan became Labour leader and first secretary in February 2000. However, as a result of the first elections to the Assembly in 1999 Labour had only been left as the largest party in a hung assembly; initially they formed a minority administration but from October 2000-May 2003 Labour government in coalition with the Liberal Democrats. Only after the 2003 elections did Labour gain a theoretical majority of one, which lasted until the defection of Peter Law to the status of being an independent AM left Labour once again a minority administration in 2005. After the 2007 Assembly elections Labour was again the biggest party but without a majority. Initially, Labour formed another minority administration but after a month in which options for a Labour-Liberal Democrat coalition and a Rainbow coalition of Plaid Cymru, Conservatives, and Liberal Democrats were discussed and rejected, Labour and Plaid Cymru struck the One Wales Agreement. In these

contexts, Labour remained the dominant party and under Morgan and Jones Labour's leadership was inclined to extend devolution. But coalition and minority government constraints all placed cross-party pressures for there to be a concerted political elite interest in progressing devolution. To progress devolution was a political necessity for success within the Welsh party system; even so Labour attempted to maintain leadership of its form and the pace of change. .

Given this background, the question is how then do the methods of cultivated regionalisation outlined above help us to understand elite leadership of the process of devolution during the Morgan and latterly the Jones era as well? First, the strategies of governance under Morgan did much to reactivate all three methods. Critically, the Michael era had not done much for the esteem of the assembly, and in particular the period of minority government had created impressions of instability and lack of coherent planned policy making. The creation and sustenance of the partnership agreement was seen by Morgan as critical to regaining a perception of stability and competence for the assembly. This was put under severe pressure, not least when Mike German had to step down as deputy first minister because of criminal allegations which were later dropped. But Labour and the Liberal Democrats stuck it out. Labour as a majority government then found it much easier to give a sense of a coherent planned agenda after 2003.

In the process of demonstrating competence the National Assembly was gradually able to reveal the potential of devolution, most strikingly shown in such innovations as the introduction of a children's commissioner, and in divergence from UK policy over education and health policy. All of this suggested that the assembly was

prepared to push at the boundaries of devolution and what it might do if it had more powers. At the same time Assembly politicians also could with increasing credibility indicate the problems of gaps in their powers, and the advantages to good governance in Wales if they were able to plug those gaps. Notable examples emerged in relation to the Assembly's ability to take decisions during the foot and mouth crisis, and to act on the debate over smoking in public places. A notable example of pressures at a sectoral level regarding the benefits to government if the Assembly's powers were enhanced came in the field of transport policy. Overall, in building up the authority of the assembly and in encouraging spillover of its powers the Morgan administration also continued to couch the gains of devolution very much in terms of the practical benefits and improvements in services that accrue to the electorate. The narrative of the development of the assembly continued to be told in functional terms.

Secondly, the process of constitutional review and debate between 2001 and 2005 did much to set the basis for future development which can be characterised in similar terms. Several measures can be seen as designed to enhance institutional build up. The decision to end the corporate body concept altogether that ran from the internal Assembly review in 2001-2002 right through to the 2006 Government of Wales Act reflects the awareness that in the debate about how to create esteem for the institution in 1997-98 they got it wrong. The assembly wanted no association with old local government committee style decision-making and wished to underline that fact. It should be said that the desire to assert itself as a parliamentary style institution also came out in a myriad ways under the direction of the presiding officer, and in the executive's decision to change the seating plan of the assembly to create more adversarial style theatre between government and opposition. Even small changes

such as changing the nomenclature of secretaries to ministers can be seen as designed to enhance esteem. More controversially, it is interesting to note that the Government's case for abolishing dual candidacy in the operation of the electoral system was made in terms of ending confusion among the public as to how it was that candidates that had been defeated in constituency elections could still get elected, highlighted in the West Clwyd Question. The suggestion was that the electoral system had in some way come into minor disrepute, which could be rectified by this modification. In a similar vein a different but probably truer assertion could be made that under the initial system competition over local representation had poisoned relations between constituency and list members, itself potentially a more serious problem for the standing of the assembly.

At the same time the proposals on powers that came forward in the Richard Report and found expression in the Government of Wales Act all had the hall marks of providing the capacity for gradual spillover of powers. The facility for the assembly to use legislative competence orders to transfer specific powers to the assembly set up a routine method for the Assembly to orchestrate gradual incremental devolution, dubbed by the Conservative Party as a process of salami slicing powers towards the Assembly. Such a process of transfer undoubtedly enhanced the potential for the Assembly to move towards primary powers, as the case could be made in a referendum for the idea that the Assembly had already gradually moved towards such a position. All the time the pressures of geographical spillover also remained, a factor that could be enhanced as an aid to the process of Welsh devolution if there was a move towards enhancing the powers of the Scottish Parliament as well in the run up

to the 2007 Scottish Parliament elections. This did indeed come to pass with the debate of further powers in Scotland following the 2007 elections. .

In the period following the 2006 Government of Wales Act the categories of analysis suggested by the neo-functionalist method are again useful in conveying the manner in which the pro-devolution elite attempted to mobilise support for pressing on to a referendum and the case for primary legislative powers. First, functional arguments remained central to the case for more powers. Labour's mantra was 'powers for a purpose'; that powers were not to be extended for their own sake but because there was a pressing specific reason why particular powers should be transferred. The functional case also was applied to the general case for more powers. In early 2010 after the National Assembly passed the resolution in favour of a referendum on primary powers the case was made in terms of arguing for power over issues for which the Assembly already had responsibility under secondary powers. This argument suggested that the referendum would have no constitutional implications; that any such discussions were in the past and what was at stake now was making a dysfunctional situation functional.

Second, intertwined with this case for a referendum was an analysis of the implications of the incremental devolution of powers facilitated by the 2006 Act through the application of framework powers and more visibly through legislative competence orders. Viewed positively by pro-devolutionists these forms of incremental devolution were the institutional means by which policy spillover could be enacted, suggesting the ever greater potential of sub-state regionalisation in the form of devolution to the National Assembly. As each piece of incremental

devolution occurred it suggested the case for the devolution of powers in related areas. At the same time a critique of the LCO process as slow and cumbersome suggested that a clean departure to primary legislative devolution would provide for a more efficient basis for the Assembly to develop its own legislation on issues for which it otherwise would have to delay action because of the need to go through an LCO process. The mantra was extended from ‘Powers for a purpose’ to the need for them to be underpinned by the ‘tools to do the job properly’.

Finally, an approach of institutional build-up also was very evident in the case for a referendum and primary powers. The Presiding Officer, Lord Dafydd Elis Thomas, consistently developed the notion of the Assembly as a legislature, serving a distinct political community and formulating its own body of Welsh law. Meanwhile, the Archbishop of Wales, The Rev Barry Morgan, was the most vocal critic of the 2006 Act as demeaning Wales; providing for a second class form of devolution compared to Scotland. Such pressures suggested potential for further devolution and the critique of ‘unfinished business’ so long as the move to primary powers was denied.

As the politicians in Cardiff Bay decided to trigger the referendum in early 2010 they also knew the danger of it resulting in a ‘no’ vote. The background conditions to debating devolution in Wales had undergone some change but public opinion on moving to primary powers remained uncertain. It was clear that appeals to Welsh identity would remain problematic, as Welsh identity still meant different things to different people and the politicisation of identity had the potential to divide the Welsh and alienate non-Welsh identifiers. Wales after ten years of devolution had not developed as a strong spatially defined focus of economic development. Support

among urban elites was broad but not deep. What was strongest was the capacity to appeal to a common Welsh ideology – the so-called progressive consensus – and some resentment still at UK resolution of Welsh problems, specified in the irritation at UK MPs deciding on the passing of LCOs. Yet such progressive ideological self-consciousness and resentment at UK roles in the Welsh legislative process were more often than not preoccupations of the elite alone. Peter Hain, Labour’s UK secretary of state for Wales, warned in late 2009 against going for a referendum on the grounds that a defeat was a distinct possibility and that it would be very damaging to the devolution process as a whole. The decision to go for it by the National Assembly was not based on a whim but it was still based on something of a prayer; and the methods utilised to pull it off had many echoes of the pre-1997 attempts at mobilising support for the principle of devolution in the first place.

Conclusion

The paper has addressed the process of devolution in Wales between 1997 and 2010. Section one laid out the chronology of key developments; and sections two and three have then sought to develop an institutionalist interpretation. This has emphasised the problematic nature of structural contexts in providing fertile ground for the initial and subsequent development of devolution in Wales; they provided a stimulus but also many constraints. Instead it has placed a focus on the significance of the elite leadership of political mobilisation. This has come particularly from the political parties and the key characteristics of their approach to mobilisation have much in common with the neo-functionalist methods of functional argument, institutional build up and policy spillover applied previously in the context of European integration. On this basis the paper argues that an exploration of devolution in Wales

suggests that the theoretical proposition that in Europe and its most salient stateless nations elite methods of developing the processes of supra and sub-state regionalisation against the established powers of the nation state have much in common has much merit. This at once provides a plausible way of interpreting Welsh devolution and adds to the potential value in exploring this framework of analysis in relation to processes of devolution comparatively across Europe's stateless nations.

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