Consulting the Nation: Public Engagement on the Constitution in Scotland and Wales

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Abstract

With nationalist parties entering office in Scotland and Wales for the first time in 2007, the issue of constitutional change became a key part of political debate. The Scottish Government and Welsh Assembly Government attempted to engage the public in discussions on the issue through their respective consultations, A National Conversation in Scotland and the All-Wales Convention. This paper considers the impact and success of both in two key areas: setting the political agenda and shaping public opinion. It argues that while in Wales the public were broadly sympathetic to the objectives of the All-Wales Convention, the issue failed to command much interest, while in Scotland the opposite was true: the constitutional debate dominated the political agenda, yet the public remained unconvinced by the Scottish Government's objective.

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Introduction
Devolution is, in Ron Davies oft-quoted phraseology, a “process, not an event”.¹ As Davies explained further, devolution is neither a “journey with a fixed end point,” nor an “end itself, but a means to an end”.² The process of administrative devolution to Scotland and Wales began long before legislative referendums in 1997, and even since the establishment of institutions in Edinburgh and Cardiff in 1999, considerations as to how further powers might be devolved to those institutions were never far from the political agenda.

On entering government in their respective institutions in 2007, nationalists in Scotland (the Scottish National Party) and Wales (Plaid Cymru)³ made constitutional change a key objective of their governmental programmes. For Plaid, in coalition with Labour in the Welsh Assembly Government, the objective was to move forward with a referendum on Part 4 of the Government of Wales Act 2006 which, if successful, would deliver substantial legislative powers to the National Assembly for Wales.⁴ For the SNP, independence was the desired outcome and, governing alone (albeit in a minority administration), the party saw a chance to deliver on their raison d’être. For both, devolved institutions provided the opportunity to enter government for the first time, and to make progress on their constitutional goals.⁵ To achieve the latter, a strategy of public engagement was required.

Early in their administrations, both Plaid and the SNP announced constitutional consultations as the precursor to referendums on altering the constitutional arrangements. For the SNP, this took the form of A National Conversation, a 3-year long consultation comprising public meetings, speeches, publications and a dedicated website in the lead up to an independence referendum, intended to be held in the autumn of 2010. For Plaid, the All Wales Convention was the price of their participation in government, and it formed the basis of the One Wales Agreement between themselves and Labour. The All Wales Convention was intended primarily as an informative consultation, aimed at engaging the Welsh public in the constitutional debate, informing about the role of the Assembly and the potential change to its powers through the referendum. The intention of Plaid – and, indeed, of the Welsh Assembly Government, since it was stipulated in the coalition agreement – was that the referendum should be held prior to the end of the Assembly term in 2011.

This paper seeks to explore the two consultations, considering the impact and success of both in two key areas: how each consultation set the political agenda in their respective nations, and how each shaped public opinion on the issue at the heart of the consultation. It argues that, in Wales, the public (and the opposition parties) were broadly sympathetic to the objectives of the All-Wales Convention, but the issue failed to command much interest beyond the elite actors of Cardiff Bay. By contrast, the opposite was true in Scotland: the constitutional debate has been a constant feature of the political agenda since the SNP took

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² ibid.
³ Hereafter ‘Plaid’.
⁴ Plaid Cymru, Make a Difference: Manifesto for the National Assembly for Wales, Cardiff: Plaid Cymru – The Party of Wales, 2007. Part 4 of the Government of Wales Act 2006 outlined a significant increase in legislative powers for the National Assembly for Wales, to be devolved only when the Welsh electorate made their desire for such a transfer of powers known in a referendum on the subject.
⁵ The rise of autonomist parties into government at both regional and national level is a phenomenon which is currently the topic of much academic research. See Elias, A. and Troncon, F. ‘From protest to power: Autonomist Parties in Government’, in Party Politics, Vol. 17, Iss. 4, 2011, for one example.
office in 2007, yet, significantly, the public remain unconvinced by the SNP’s constitutional objective of independence.

Consultations
In recent years, consultation has become the medium of choice for governments to involve their citizens in the decision-making process. Consultations have become a “pervasive... feature of the policy process in Britain”, providing governments opportunities to engage with the public, “holding a dialogue and encouraging a debate”. However, the practice of consultation can “range from cosmetic ritual to meaningful bargaining between government and group”, meaning that while in some cases consultation makes a real difference to policy outcomes, in other cases the exercise is simply a means of appearing accessible and transparent. The key consideration for governments is that involving their citizenship in such a manner leads to better decisions and better government – or, at the very least, decisions which are more widely accepted and recognised as legitimate. Indeed, governments are not only keen to consult, but keen to prove that the results of their consultations have been utilised and influenced outcomes in some way. And while consultation appears a well-intentioned attempt to bridge the gap between representative democracy on the one hand and an ever disengaged general public on the other, for some it is an “uncomfortable half-way house” between direct models of democracy (which have also become increasingly popular – witness the increasing use of referendums around the world) and traditional, representative models.

Consultations can be undertaken for a variety of reasons, and that they can fulfil several distinct objectives for practitioners. The desire for expert opinions and evidence can be a key aspect of the policy process, helping to shape, provide different options or judge the success of a policy. In the cases examined below, seeking expert knowledge, identifying possible issues with the government’s desired course of action and attempting to fashion a consensus played a role in the respective governments’ reasons for consulting.

One of the problems faced by practitioners of consultations (in this case, governments) is that they themselves often have a preferred outcome prior to undertaking the consultation. Hogwood and Gunn identify nine stages through which a policy may pass, from deciding on which issue to pursue through implementation to the continuation or termination of the policy itself. At several stages of their analysis a consultation could be considered – at the beginning (to seek ideas), at the forecasting stage (to identify implementation problems) and

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7 Hogwood, B. W. ‘If Consultation is Everything Then Maybe It’s Nothing’ in Strathclyde Papers on Government and Politics, No. 44, 1986, p.11.
9 Hogwood, B. W., op cit. p.12.
12 Jones, R. and Gammell, E., op cit. p.3.
14 ibid. p.2.
during the evaluation stage (to improve the initial proposals) to name three. One of the issues here is that the process of selecting and establishing a policy can close off the potential for other policy considerations. In the context of consultation, this can limit the range of policy possibilities and outcomes; essentially closing the consultation to views falling outwith the government’s preferred policy course.\footnote{Cook, D. \textit{op cit.} p.529.} If this is the case, it raises legitimate questions about why the government is deigning to consult in the first instance. Of course, in some cases, governments or local authorities are legally obliged to consult – and while this ensures that a consultation will take place, it does not ensure that it is an effective consultation, nor that any of the respondents concerns will be factored into the policy outcomes.\footnote{Jones, R. and Gammell, E. \textit{op cit.} p.192.}

The consultations explored below were constructed with their respective governments’ policy preferences in mind. However, neither were “closed shops”. The Scottish Government presented their view – along with several other options – on the constitutional future of Scotland which explicitly declared their own preference for independence but pressed how keen they were to hear the public’s views. This was a unique type of consultation (based, as it was, on the SNP’s raison d’être and not, as is most often the case, on a specific policy area)\footnote{Harvey, M. and Lynch, P. ‘Inside the National Conversation: The SNP Government and the Politics of Independence 2007-2010’ in \textit{Scottish Affairs}, No. 80, Summer 2012, p113.} and as such, falls slightly outwith the parameters of the general consultation literature. The Welsh Assembly Government’s consultation was the result of a coalition agreement between Labour and Plaid, the latter naming the All Wales Convention as the price of their participation. However, it was constituted and progressed in a scrupulously neutral manner, with the executive committee favouring neither side of the debate, either in the national events or in their final report.

The All Wales Convention

In contrast to Scotland, where the Scottish Constitutional Convention had provided the blueprint for devolution and achieved its ambition of a devolved Scottish Parliament after the 1997 referendum, the clear lack of public consultation in advance of the Welsh referendum made for an “inauspicious start” for the National Assembly for Wales, with the active support of just one in four of the population.\footnote{Rawlings, R. \textit{Delineating Wales: Constitutional, Legal and Administrative Aspects of National Devolution}, Cardiff, University of Wales Press, 2003, p.49.} The purpose, remit and responsibilities of the National Assembly for Wales, ill-defined and ill-understood for the first two sessions of devolution, were further complicated by the Government of Wales Act 2006 and the system of Legislative Competence Orders it adopted.\footnote{For a comprehensive summary of the LCO process, see House of Commons Welsh Affairs Committee \textit{Review of the LCO process}, Fifth Report of Session 2009-10, HC Paper 155, London, Her Majesty’s Stationery Office, 2010.} It was, according to key actors, “quite clear” that people didn’t understand the process, and that trying to explain it to the public was “maddeningly difficult”.\footnote{Interview with Most Rev’d Dr Barry Morgan (Archbishop of Wales and Chair of Cymru Yfory) (June 2010).} There was a feeling then, that if a further referendum – a referendum mandated by the 2006 Act – was to be won, a period of electorate education would be required. The cost to Labour of remaining in power (in coalition with Plaid) after the 2007 National Assembly elections was a commitment:
Specifically, the agreement between the parties spelled out how the Welsh Assembly Government hoped to achieve this objective.

The preparations for securing such a successful outcome will begin immediately. We will set up an all-Wales Convention within six months [...].

Objectives
The agreed remit of the All Wales Convention was broad. In the first instance, the Convention was tasked to “raise awareness and improve understanding of the current arrangements for devolved governance in Wales and of the provisions of Part 4 of the Government of Wales Act 2006, and their future implications for the governance of Wales”. This was primarily an informative role – educating the Welsh public about the functions of the National Assembly for Wales and its powers, how those powers had been altered in the period since the establishment of the Assembly, and the potential impact of further alterations to the devolution settlement. Second, the Convention was asked to “facilitate and stimulate a widespread, thorough and participative consultation at all levels of Welsh society on the issue of primary law-making powers”. This second objective moved the Convention from being solely an informative body to one which provided a two-sided discussion, with the views of the Welsh public being actively sought.

Third, the Convention was to “prepare an analysis of the views expressed and the evidence presented through this process”, with the intention that the views of the Welsh public on the issue could influence the decision-making process with regard to the referendum timescale. Fourth, the Convention was tasked with “assessing the level of public support for giving the National Assembly for Wales primary law-making powers” to ascertain whether the Welsh Assembly Government’s intention to move forward to a referendum within the third term of the National Assembly for Wales was a prudent course of action. Finally, the Convention was asked to “report to the One Wales Government on its findings, with recommendations relevant to the holding of a referendum” at the end of the process.

With a remit that covered public information as well as public engagement around the devolution agenda, and the practical issues which this entailed, the Executive Committee of the All Wales Convention had to remain flexible with regard to the structure of the process. The Committee had to obtain expert opinion from government officials, political parties and

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23 ibid.


academics, whose knowledge helped to equip the All Wales Convention with the information they required to fulfil their remit. Equally, the Committee had to find ways of engaging with the wider public in forums which were less formal than traditional means of consultation. The geography of Wales – and the poor transport links between north and south Wales – provided a further consideration for the Executive Committee to take into account.\(^{26}\) This led the Committee to make their communications and consultation strategy one of their first priorities.\(^{27}\) At the same time, formal evidence gathering – both in the form of written submissions and oral evidence sessions in different parts of Wales – were undertaken. Finally, the Convention’s communication strategy was also employed, a strategy which included advertising through local newspapers and radio, invitations to schools to participate in the Convention, and public appearances by All Wales Convention Chair Sir Emyr Jones Parry. A website and interactive discussion forum on Facebook were also established to advertise the Convention to the public.\(^{28}\)

In total, during the public events phase, the Convention engaged with over 1,700 people. As a proportion of the Welsh electorate (2.3m) this is a relatively small number, and critics argued that this fell well below what was expected of the Convention. Michelle Matheron, of the WCVA put it most succinctly:

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\text{The All Wales Convention’s remit was for all Wales – and to inform – and when you take it like that, it has clearly not done this.}^{29}\]

Nevertheless, the All Wales Convention succeeded in gathering evidence about the institutional set-up in Wales in three ways. Firstly, the All Wales Convention opened its website to contributions, providing an online form which allowed visitors to the site to engage in the discussion – and it did so, as in each of the Convention’s forums, in both English and Welsh. This allowed the Convention to target a slightly different audience than it had when inviting oral evidence. From the website itself, the Convention received 392 separate contributions, with the names of all of those contributing through this means appearing in Annex F of their final report.\(^{30}\)

In addition to the online debate, the All Wales Convention invited written evidence to be submitted. This could be done in two ways. Firstly, the Convention devised a questionnaire on the debate which was completed by 1,925 people – predominately at events run by or for the All Wales Convention. Secondly, the Convention published consultation questions which were aimed at aiding contributors in focusing their submissions. While the Convention was keen to ascertain people’s views on the specific questions they had asked, they accepted all contributions which were within the remit of the consultation. This resulted in written evidence from 608 organisations and individual members of the public, ranging from political elites and political parties to interested stakeholders, as well as individuals with no official affiliations.\(^{31}\) Finally, the All Wales Convention held 13 formal

\(^{26}\) Interview with Sally Hyman (All Wales Convention Executive Committee) (June 2010).
\(^{28}\) \textit{Ibid.}, p.12.
\(^{29}\) Interview with Michelle Matheron (WCVA) (June 2010).
\(^{30}\) All Wales Convention, 2009, \textit{op cit.} pg122-5.
evidence gathering sessions to hear evidence from 76 individuals and organisations across Wales.32

Setting the Agenda
The Final Report of the All Wales Convention was presented to the Welsh Assembly Government in November 2009. It contained broad recommendations in six areas. Firstly, the Convention recommended that, whether the LCO system remained in operation or the move to Part 4 of the Government of Wales Act 2006 was completed, further work would be required in order to bring the level of scrutiny of Welsh legislation into line with other legislatures in the UK. Secondly, the Convention reported a distinct lack of understanding throughout the general public in Wales about the scope and impact of devolution. Members of the Convention’s Executive Committee33 and other interested stakeholders34 recognised the challenges of effective communication in Wales and noted that the Convention itself had largely failed in this part of its remit – that is, in educating the public on devolution. The Convention recommended that more work also needed to be undertaken in this area if devolution was to be accepted as part of the Welsh political landscape in a way it was not in the immediate aftermath of the 1997 referendum victory. Thirdly, and related to the perceived lack of public understanding of devolution, the Convention recommended the continuation of a wide-ranging public debate on devolution, emphasising the lack of engagement the public had had with the debate during the process.

Fourthly, and perhaps most importantly given it related directly to the Convention’s remit, was the Convention’s recommendation that Part 4 of the Government of Wales Act 2006 offered a “substantial advantage”35 over the LCO system. This was a significant and important recommendation, validating as it did the coalition’s own view that progress towards Part 4 through a referendum was desirable (as set out in the One Wales Agreement). Though the final report did provide proponents of devolution with the recommendation they had hoped for, it did so from an impartial and unbiased perspective, guided only by the evidence collected. That neutral perspective also lent the Convention’s fifth recommendation – that a ‘Yes’ vote in a referendum was obtainable but could not be guaranteed – more weight. Given the evidence collected by the Convention but particularly that the understanding of devolution in Wales was still lacking, it was this recommendation which the Welsh Assembly Government took most careful note of. Finally, in terms of timescale, the Convention recommended that if the original timetable for a referendum outlined in the One-Wales Agreement was to be adhered to (that is, that the referendum was to be held prior to the dissolution of the 2007-2011 session) then a decision on holding the referendum would be required by June 2010 at the latest.

Despite a lack of public engagement with the process, the final report of the All Wales Convention played a large role in shaping Welsh parties’ responses to the constitutional question. In particular, it helped to foster agreement – at the level of the National Assembly for Wales at least – on the need to move forward with plans for the referendum, and to campaign for a Yes vote. In terms of party politics, it also played a key role in preserving the agreement which established and maintained the Welsh Assembly Government.

32 ibid. Seven of the 13 oral-evidence sessions were held in Cardiff, which did nothing to aid the perception that the Convention was an elite-based, South Wales-centric consultation.
33 Interviews with Sally Hyman (All Wales Convention Executive Committee) (June 2010) and Harry Ludgate (All Wales Convention Executive Committee) (June 2010).
34 Interview with Michelle Matheron, (WCVA) (June 2010).
35 All Wales Convention, 2009, op cit. p.98.
**Shaping Public Opinion**

With the All Wales Convention recommending that a move to a referendum was preferable, the Convention had a clear influence on the Welsh political agenda for the following two years. It played a considerable role in shaping the devolution debate, most prominently at the level of the Assembly itself, where the four parties represented devised their individual and collective strategies to move towards and win a referendum on the issue.

For Labour and Plaid, the All Wales Convention had been a key component of the One Wales Agreement and one which their continued partnership depended upon. For Labour – whose MPs had only passed the Government of Wales Act a year before the coalition agreement was signed – the All Wales Convention gave an opportunity to assess the operation of the LCO system and how the arrangements would work in practise, and to review how devolution had functioned in its first two terms. Primarily, however, it bought the party some time to consider its strategy. For Plaid, however, progress towards the referendum had been a “red-line issue”, and their role in coalition government depended upon that progress being made. For the Conservatives, support for the All Wales Convention, and for the referendum itself, was part of a massive transformation. From a position of anti-devolution in 1997, the party was now supportive of devolution and moves to increase the powers of the Assembly itself. After the conclusion of the consultation process, it was the Conservatives who were pushing for the referendum to be held at the earliest possible opportunity. The Liberal Democrats were in much the same position, with former leader Mike German vocal in his support for the powers to be devolved – and unrestrained in his criticism of the other parties for slowing down the progress of devolution. In his view, the All Wales Convention was simply a means for Labour MPs to delay the referendum, and that the parties in Wales did not react quickly enough to the Convention’s report to get a positive cross-party campaign running. However, his somewhat negative view of the Convention’s intention was tempered by a recognition that it delivered unanimity from Assembly Members, and that it succeeded in obtaining support from the Welsh Conservatives despite their historical opposition to devolution.

Thus, for the period of time covering the life of the All Wales Convention and the eventual holding of the powers referendum in March 2011, there was relative harmony among Welsh political representatives in Cardiff Bay with regard to the constitutional arrangements. Each of the parties accepted the remit of the All Wales Convention and each contributed representatives to its Executive Committee. However, public engagement with the issue of devolution – which was crucial if the powers set out in the Government of Wales Act 2006 were to be devolved in a referendum – was limited. This led to a paradox: there was a lack of public engagement with the constitutional consultation yet the very same public who had appeared disinterested in the devolution project subsequently voted FOR the extension of legislative powers for the National Assembly for Wales. This emphasises the difficulty in judging success solely on one criterion: on public engagement, the consultation largely failed to capture the imagination of the Welsh public, yet on the short-term outcome (the delivery of a Yes vote in the referendum) a substantial measure of success was achieved.

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36 McAngus, C. *op. cit.*
37 Interview with Dr Gwenllian Lansdown (Chief Executive, Plaid Cymru) (June 2010).
38 Interview with Nick Bourne (then Conservative AM and party leader) (June 2010).
39 Interview with Mike German (then Lib Dem AM) (June 2010). These sentiments were also expressed in German, M. ‘Just Say Yes’ in *Agenda*, No. 36, Winter, 2008, p.25-6.
40 *ibid.*
A National Conversation

For the SNP, a constitutional consultation represented something which they had never had the opportunity to do before: engage the public through the apparatus of government on the issue upon which the party was founded. It was built as an attempt to do three things: build support for independence, engage the political and governmental establishment in Scotland on the constitutional debate and to maintain the issue of independence on the political agenda in Scotland.41 To do so successfully meant engaging the Scottish public at various different events and through governmental publications over a sustained period of time. This strategy developed largely from the perceived success of the Scottish Constitutional Convention of the late 1980s and early 1990s in bringing about devolution in the first instance.

In their 2007 manifesto for the Scottish Parliament election, the SNP promised the:

Publication of a White Paper detailing the concept of Scottish independence in the modern world as part of preparations for offering Scots the opportunity to decide on independence in a referendum, with a likely date of 2010.42

The party held to their manifesto commitment and produced a White Paper entitled Choosing Scotland’s Future – A National Conversation in August 2007, only three months after taking office. This began what would be a three-year consultation on Scotland’s constitutional future. It was a malleable process, designed to adapt to the changing circumstances and political environment of the time.

Objectives

The White Paper itself set out what the Scottish Government viewed as three “realistic choices” for the future of Scotland. These were: maintaining the status quo of a Scottish Parliament within the United Kingdom, redesigning devolution to extend the powers of the Scottish Parliament (including fiscal powers but short of independence) and the Scottish Government’s preferred option, independence.43 The Scottish Government went to great lengths within this document to show that this was not to be a one-way street, that all views, even – and perhaps, in particular – those which were opposed to independence, were welcomed within the discussion.44

That the Scottish Government presented several options for Scotland’s constitutional future – and not simply their own desired outcome – have an indication of the objectives they sought from the process. The primary objective of the consultation was to lay the groundwork for a referendum on independence. This was made clear in the introductory White Paper.45 However, even this was a minor misrepresentation of the consultation’s objectives. For while building towards a referendum did dominate the Scottish Government’s thinking through the consultation, independence itself – and not the

41 Interview with Kevin Pringle (Scottish Government Special Advisor) (May 2010).
referendum – was the long-term objective of the process.\textsuperscript{46} Building towards a yes vote at a referendum then, could be understood as the key objective of the process. Nevertheless, behind this objective lay several secondary aims.

\textit{Setting the Agenda}

Firstly, and perhaps most importantly, the consultation allowed the party to set the political agenda in Scotland. This was a key consideration of A National Conversation and provided “a tangible means of judging the success of the consultation”.\textsuperscript{47} Agenda-setting was key to the SNP’s strategy of normalising the constitutional debate, providing the party with the opportunity to explain their vision of independence through an “apparatus which was bigger than the party” and, perhaps even more crucially, engaged the civil service in Scotland in the constitutional debate, preparing the wider Scottish Government for the possibility of independence and what it would mean for government.\textsuperscript{48} Public engagement then, was crucial to the SNP’s strategy, not only as a means of promoting their constitutional goal in government, but also as a means of placing and maintaining the constitutional issue on the political agenda and engaging the political classes (as well as the machinery of government and the media) in discussions upon the issue.\textsuperscript{49}

Phase one of A National Conversation began with a speech by First Minister Alex Salmond at Napier University on 14 August 2007 and the launch of the White Paper Choosing Scotland’s Future. The First Minister indicated that it was “the start of the next... phase of Scotland’s progress of constitutional reform.”\textsuperscript{50} He also argued that “there is now no substantive debate about whether there should be change, only what change there should be,” and that a “range of options” would be considered in the process of consultation.\textsuperscript{51} At the same time, an interactive website was launched on which Cabinet Secretaries and Ministers from the Scottish Government contributed articles and blog posts and which allowed the public to post comments and join discussions on a wide range of topics related to the constitutional debate. For six months, the consultation process was predominantly limited to written submissions – articles by Cabinet members and comments, letters and emails from the public, with only the First Minister delivering a series of public lectures to keep the consultation in the public eye.\textsuperscript{52}

These were relatively large media events which engaged the (predominantly anti-independence) Scottish press in discussions about Scotland’s constitutional future. While the editorials of these newspapers may not have been to the Scottish Government’s taste, the fact that the press was writing about independence and the National Conversation was a step forward in itself for both the SNP and the Scottish Government.\textsuperscript{53} This was about setting the political agenda. The opportunity to address wide audiences both at the events themselves and through the media reports allowed Alex Salmond to control the constitutional agenda. With no opposition politicians present at the National Conversation publication launches or public speeches, the Scottish Government has taken the opportunity to present the public with a clear idea of their view of independence. Indeed, the fact that the events themselves

\textsuperscript{46} Interview with a senior Scottish Government Official (March 2010).
\textsuperscript{47} Interview with Kevin Pringle, Special Advisor to the Scottish Government (March 2010).
\textsuperscript{48} Interview with a senior Scottish Government Official (March 2010).
\textsuperscript{49} Elias, A. and Tronconi, F. \textit{op cit}.
\textsuperscript{50} Salmond, A. \textit{Launch of A National Conversation}, speech at Napier University, 14 August, 2007.
\textsuperscript{51} \textit{ibid}.
\textsuperscript{53} Harvey, M. and Lynch, P. 2012, \textit{op cit} p.95.
allowed for direct engagement with the public – “without the traditional anti-SNP, anti-independence media filter” – was seen as a clear advantage to the Scottish Government’s consultation.\textsuperscript{54}

Phase two of A National Conversation began with another public lecture from Alex Salmond, this time delivered to leaders of several Scottish institutions – schools, businesses, trade unions and churches. Here, the First Minister stressed the “broad acceptance across the entire political spectrum” that Scotland required “greater decision-making responsibility” and welcomed any moves towards this end – including what was at the time a proposal by the opposition unionist parties to establish a Commission on Scottish Devolution.\textsuperscript{55} What was also a clear message from the First Minister’s speeches was that the Scottish population should be consulted as to their preferred constitutional future, reiterating his view that “the people are sovereign” and that “the right to choose the future for this country is their right”.\textsuperscript{56} Thus, it was clear early in the consultation process that, in the Scottish Government’s view, the public should have a central role in the constitutional debate. And this was evident throughout this phase of A National Conversation, which was marked by more public events, including meetings with several of these institutions, as well as Cabinet meetings scheduled around Scotland and public meetings in the style of Question and Answer sessions, where members of the public were invited to share their thoughts, questions and concerns with Cabinet Secretaries and Ministers present.

Phase 2 also saw the Scottish Government make a greater attempt to engage the public in the process though events and public meetings. Taking place around the country as part of the Scottish Cabinet roadshow or as stand-alone events hosted by Cabinet Secretaries and Ministers, these events allowed the Scottish public to question ministers about their views on a wide range of issues. Depending on the host town in question, the questions ranged from Scottish Government policy on energy and wind power (the Borders), science and research grants (Dundee), Gaelic education and population migration (Western Isles) and oil production (Aberdeen). These issues – and many others – were raised with Cabinet ministers alongside the issue which the Scottish Government had intended to discuss at these events: the constitutional future of Scotland.\textsuperscript{57} This debate, however, largely played second fiddle to the many policy concerns that the public had, and comprised only a fifth of the questions asked over the course of the public events.\textsuperscript{58} However, the Scottish Government viewed the process as a success in that it allowed members of the public access to Government Ministers to discuss their views on any issue of importance to them.\textsuperscript{59} While this was public engagement, it was engagement on the public’s terms.

A number of questioners did engage with the Scottish Government on issues pertaining to the constitution. In Jedburgh, one attendee wanted to know:

\textit{What defence strategy would an independent Scotland adopt?}\textsuperscript{60}

\textsuperscript{54} Interview with Stuart McMillan (SNP MSP) (March 2010).
\textsuperscript{55} Salmond, A. \textit{National Conversation with Scotland’s institutions} speech, Edinburgh, 26 March, 2008.
\textsuperscript{56} \textit{ibid}.
\textsuperscript{58} For a full analysis of the questions asked at the National Conversation public events, see: Harvey, M. and Lynch, P. 2012, \textit{op. cit}.
\textsuperscript{59} Interview with Ian McKee (then SNP MSP) (March 2010).
Others were concerned with monetary issues, social security and pension delivery post-independence. In tight economic times, one questioner wanted to know

*Where would an independent Scotland borrow from?*

Of course, the issue of Scotland’s relations with the rest of the UK – and beyond – were also the subject of several questions:

*How will an independent Scottish Government relate to other governments (and organisations) across the current United Kingdom?*

And among the questions, there were some keen assertions from audience members about the nature of post-independence Scotland, and reasons why this path should be followed:

*[T]he most cogent argument for independence for Scotland is the need for separate representation at the European Union.*

These questions indicate that the debate that the Scottish Government intended A National Conversation to begin was important and required much more engagement – from the Scottish Government itself, opposition parties and the public – in order to deal with the issues surrounding the constitutional debate. The Scottish Government publications outlined above as well as the National Conversation events offered a starting point for those interested in particular aspects of the debate but were slanted towards the government’s preference of independence. The question and answer sessions at these events were lively and covered a wide variety of issues. They were also useful in providing the Scottish Government with an opportunity to make themselves accessible to the public around the country, to engage with their issues and to consult widely on the issue of the constitutional future of Scotland. However, the evidence here suggested that a broader constitutional debate was required, with engagement from both sides of the debate, for an informed decision to be made by Scotland’s population in any referendum on the subject.

**Shaping Public Opinion**

While, for the duration of A National Conversation, the SNP maintained the support of the public as a popular government, this support did not translate into support for the party’s constitutional preference. Opinion polls indicated that support for independence remained static for the period of the consultation and, dependent upon how the question was worded, support ranged from just under to just over one third in support of independence, with just under half saying they would vote against. A Populus poll for The Times in April 2009 gave respondents four options regarding their constitutional preference: independence,

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64 Interview with Alasdair Allan (SNP MSP) (March 2010).
further devolution within the United Kingdom, the status quo and significantly fewer powers for the Scottish Parliament. The result saw only one in five indicate a preference for independence, with 41% supporting increased devolution – a finding that confirmed previous polls on the subject.67

Thus, there was a distinct dilemma for the SNP in power. The process of consultation, of transparency and accountability, was a success for the SNP in terms of being a popular activity. The public like to be consulted on issues, like to be able to present their views and to hold those in power to account. This benefited the SNP in several ways, notably as a means of appearing as a government which was open to the public but also in terms of popular support. As the opinion polls suggest, the SNP remained a popular party of government.68 And, indeed, while questions relating to the constitution remained in the minority at these events, the issue remained on the political agenda throughout the SNP’s term in office – a significant success for the party in terms of agenda-setting.69 However, as a means of continuing the debate upon Scotland’s constitutional future, the National Conversation failed to deliver upon its primary objective – a distinct increase in support for independence. And this remained the difficulty for the SNP even after 2011, when they moved from minority to majority government – how to translate their support as a government into support for their constitutional preference.70

Conclusion
Judging the success of a consultation can be problematic. Should it be judged upon active engagement with the process? Successfully setting the political agenda? Or are policy outcomes more important? And where do the objectives of the consultation instigator come in? Does success in one of these areas limit success in others? And can a consultation only be regarded as successful if it ticks all of these boxes?71

It is clear that both the All Wales Convention and the National Conversation achieved varying levels of success, and this success can be judged against three criteria: public engagement with the process, setting the political agenda and the impact of the process on policy outcomes. For both consultations, these criteria were part of the objectives of the respective governments in deciding upon public engagement as a strategy.

The All Wales Convention had several objectives laid out in its remit. Firstly, it was designed to have an informative and educative role – to make the Welsh public aware of the devolution settlement granted in 1999 and how it had been altered through the Government of Wales Act 2006. This was particularly important given the provisions of Part 3 of the Act which established (limited) legislative powers for the Assembly, to be delivered through a complex and gradual process involving Legislative Competence Orders (LCOs). The LCO system was intended as a bridge to Part 4 of the Act, which would devolve powers in 20 areas without the need for the Assembly to apply for each power individually. In light of the potential for extending the Assembly’s powers, the second objective of the All Wales Convention was to stimulate a public discussion on the merits of increasing the role of the

69 Interview with Keith Brown (SNP MSP and then-Scottish Government Minister for Schools and Skills) (April 2010).
National Assembly for Wales to that of a legislative body. Finally, the Welsh Assembly Government asked the All Wales Convention to analyse the views it encountered, and to recommend to the Assembly as to whether a referendum to move to Part 4 of the Government of Wales Act 2006 was desired, and whether a successful outcome could be achieved.\textsuperscript{72}

The All Wales Convention discovered a very mixed picture: There was general confusion as to the powers of the National Assembly for Wales, and the distinctive role the Welsh Assembly Government played – not to mention the merits of devolution – which were lost in the public’s difficulties in understanding the system. The addition of the LCO system further complicated matters. Thus, what the All Wales Convention encountered was a Welsh electorate which was uneducated about devolution, and on that aspect of its remit, the Convention largely failed to alter that situation. That being the case, the All Wales Convention largely failed in its second objective – to stimulate widespread public discussion of devolution. Recognising this failure – and that such a discussion would be required if a referendum on the extension of the Assembly’s powers was to be won – the Convention recommended the continuation of a wide-ranging public debate on Welsh devolution.\textsuperscript{73}

Finally, given the evidence at its disposal, the All Wales Convention suggested that a move to Part 4 of the Government of Wales Act 2006 offered a “substantial advantage” to the LCO system. The Convention thus recommended that a referendum should be undertaken – which fulfilled the final objective of their remit – but that a Yes vote could not be guaranteed.\textsuperscript{74}

This paper contends that the All Wales Convention played a considerable role in shaping the debate on devolution in Wales in four distinct ways – as a key aspect of the One-Wales Agreement, it maintained the governing coalition between Labour and Plaid; it helped to maintain the momentum for legislative powers for the National Assembly for Wales as one of several initiatives with this ambition; it played a role in preparing the ground for a referendum on extending the powers of the Assembly by engaging the public in debate about devolution; and it played a role in convincing the public of the need for change. However, as noted above, this role was also marked by a failure to engage the public in the debate about devolution and, in particular, an inability to communicate more widely across Wales.

For Plaid, though the All Wales Convention played a limited role in engaging the public in the constitutional debate and informing the electorate of the nature of devolution in Wales, the success of the strategy was implicit in the referendum, held in early 2011, which delivered a positive outcome, and the enactment of Part 4 of the Government of Wales Act 2006. This was achievement of the party’s primary short-term goal: the transformation of the National Assembly for Wales into a legislature with primary law-making powers.\textsuperscript{75}

Thus, determining the success of the All Wales Convention is problematic. On the one hand, by their own admission, the consultation failed to engage the Welsh public on the topic of devolution in any substantial numbers, or to adequately educate the public on the nature of devolution in Wales. On the other – the policy outcome objective was fulfilled with a victory for the Yes campaign in the 2011 Welsh Powers Referendum by a substantial margin

\textsuperscript{72} All Wales Convention, 2008, \textit{op. cit.} p.xx.
\textsuperscript{73} All Wales Convention, 2009, \textit{op. cit.}
\textsuperscript{74} \textit{ibid.}
\textsuperscript{75} Plaid Cymru, \textit{op. cit.} 2007.
(63.5% voted for the extension of powers, compared with the 50.3% who voted to establish the National Assembly for Wales in 1997).

For the SNP, success cannot be measured by the result of a referendum, since that referendum has not yet occurred. Rather, the success of the SNP’s strategy must be measured by its impact upon the devolution debate and the outcomes it has influenced. With the establishment of the Calman Commission as a direct response to the SNP’s National Conversation and the subsequent legislation to extend the powers of the Scottish Parliament in the shape of the Scotland Bill, there can be no question that the SNP achieved some success in building consensus on the need to change the constitutional settlement. Their primary, long-term aim – full independence for Scotland, in whatever form that concept now takes for the party – has not yet been achieved, and, if opinion polls in the wake of the SNP’s election victory in May 2011 are to be believed, is unlikely without a substantial shift in public opinion. It is for this reason that the party delayed their ambition to hold a referendum and waited instead for the “winning conditions” to be apparent before undertaking such a public vote.

In engaging the Scottish electorate in a discussion about constitutional options, the SNP had intended that their ability to promote independence as a viable option for Scotland through public events would increase support for independence in advance of a proposed referendum on the issue. However, as detailed above, support for independence remained static while the SNP in government maintained and even increased in popularity due, in part, to delivering popular policies in government and engaging in consultation with the Scottish electorate. In this respect, the impact of A National Conversation was limited to maintaining the popularity of the SNP Scottish Government but not increasing support for their constitutional goals. And that is emblematic of the problem facing the SNP – and, indeed, other regionalist parties in government: how to transfer support for the party to support for constitutional change. The SNP did achieve success in forcing the issue onto the political agenda – and parties in Scotland that are vehemently opposed to independence had to react by discussing options for reforming devolution and, in particular, the devolution of further powers to the Scottish Parliament.

The lack of a referendum to complete the process of A National Conversation led to opposition parties and political commentators arguing that the consultation had failed. However, and perhaps importantly, given the lack of support for independence at the consultation’s conclusion, the fact that A National Conversation began, maintained and developed a widespread constitutional debate, inclusive of political elites, civic society and pressure groups among others, appeared to contradict this viewpoint. Since the SNP entered minority government in 2007, we appear to have entered an expansionist phase of constitution-making in Scotland. Indeed, while the Calman Commission spawned the Scotland Bill – a clear, tangible outcome which altered the devolution settlement – A National Conversation appears to have left a lasting legacy of public engagement. While the government’s consultation is long since complete, what we see now is a multi-lateral consultation on the constitution – advocates for independence and the union leading the debate with civic society, pressure groups and wider Scottish society in a variety of places and through a variety of media – in which government is no longer the main actor. In the wake of A National Conversation – and more prominently, since the SNP were returned to

power as a majority government – civic society has engaged in constitutional debates amongst themselves. Herein lies the lasting legacy of the National Conversation process: a public engaged in the constitutional debate, actively interested in the discussion and pursuing preferred ends. By this measure, the consultation itself can be judged a relative success.

Comparing the two processes, it is clear that the public engagement strategies of the SNP and Plaid bear some similarities with one another. Both were top-down affairs, executed by nationalist parties in office for the first time. Both set out to engage the public in the constitutional debate, and both sought to build support for their party’s preferred constitutional option. It is in the outcomes achieved through these strategies that the similarities end. In the Welsh case, the public – as in the 1997 devolution referendum campaign – remained disinterested in the process, did not participate in the All Wales Convention in large numbers, and the constitutional debate was largely ignored. It was, against its intentions, a consultation which engaged “the usual suspects” – the elite actors and organisations in Welsh political circles.78 However, somewhat paradoxically, the referendum campaign was a success for those who supported devolution, with almost two-thirds of those voting supporting the move to Part 4 of the Government of Wales Act 2006. Thus, Plaid’s strategy, though lacking in public engagement with the consultation, delivered their desired outcome in the referendum.

Contrastingly, the Scottish case saw a different scenario unfold. A National Conversation was generally considered by those who engaged with it to be a good initiative, and allowed the Scottish Government to be seen as transparent and accessible.79 However, the lack of an endpoint (a referendum) meant that there was no tangible outcome to the SNP’s public engagement strategy – at least, not in the short term. However, in terms of agenda-setting, this strategy spawned the Calman Commission, which led to the Scotland Bill and the devolution of further powers to the Scottish Parliament. It led – indirectly – to the re-election of the SNP in 2011, this time as a majority government, and to the likely delivery of an independence referendum in 2014. Crucially, however, it has also led to widespread public engagement with the constitutional debate, which has now become much more of a bottom-up process, with limited engagement for the Scottish Government.

In Wales, despite the formation of a further commission to study devolution (the Silk Commission) in the wake of the successful 2011 referendum, the public remain disengaged in the debate, which continues to be elite-level and government-led. In Scotland, and in the absence of any short-term success for the SNP vis-à-vis their constitutional objective, there now exists a constitutional debate which has become multi-lateral. Civic society, politicians, media outlets and the wider public are all engaged in consideration at varying levels in a constitutional debate in which the Scottish Government is no longer the main actor. This is the primary difference in outcomes between the consultation processes in Scotland and Wales, and may lead to long-term differences in how the constitutional debate unfolds in each nation.

78 Interview with Rob Humphrey (All Wales Convention Executive Committee) (July 2010).
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