

The Experiences of Scottish Devolution

Constitutional and Parliamentary Mechanisms of the Scottish Parliament

June 2016



FOREWORD

DPI aims to create an environment which facilitates the sharing of knowledge, opinions, ideas and concerns relating to peace and democracy building. We seek to create a structured public dialogue and support the diversity of opinion, as well as creating and widening existing platforms for discussion. DPI's principle objective is to identify common priorities and develop innovative approaches to participate in and influence the process of finding democratic solutions. Comparative studies of associated case studies enable us to effectively analyse past mistakes so as to avoid their repetition. Therefore, we see comparative analysis of models of peace and democracy building to be central to the achievement of our aims and objectives.

As domestic politics continue to shape international affairs and the potential for conflict, it is vital to comprehend the nature of local government structures. This paper seeks to map the steps taken towards devolving greater power from the UK central government to Scotland. The relationship between Westminster and Holyrood has shifted significantly over the past two decades, and faces further changes today. Through understanding the nature of these developments we can seek to pre-empt the future of these relationships and to recognise the way society is developing as a result. The UK and in particular the case of Scotland, continues to provide a useful case study on questions of governance, presenting numerous topics in relation to power sharing and devolution processes.

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I. COUNTRY OVERVIEW

Scotland is a country that is a part of the United Kingdom and occupies the northern third of Great Britain.¹ It has an estimated population of 5,327,700 people of which around 70 per cent of the population lives in the Central Lowlands, including major cities such as Edinburgh and Glasgow. The capital city of Scotland is Edinburgh. It is the second most populous city in Scotland and the seventh most populous in the United Kingdom. Edinburgh is the home of the Scottish Parliament and its executive branch, the Scottish government. It is an important industrial city which makes it the strongest economy of any city in the United Kingdom outside London.² Scotland has 15 diverse regions and 800 islands, stretching 78,722 square kilometres above the border with England. The border runs between the basin of the River Tweed on the east coast and the Solway Firth in the west coast.

The Scottish economy is traditionally based on heavy industries such as coal mining, shipping and steelmaking, however since the 1960s with the discovery and extraction of North Sea oil, it became an important international oil exporter and the oil sector became the cornerstone of the Scottish economy. The sector contributes 26 billion pounds to the Scottish GDP annually. Outside refined petroleum, Scotland mainly exports food and drink, business services, machinery and equipment and electronic products. The Scottish Gross Domestic Product, including revenues from North Sea oil and gas, is 240.975 billion dollars.³ Since 1997, the Scottish Parliament is the main legislative body of Scotland and it has authority over decisions regarding Scottish domestic politics. Scotland is represented by six members of parliament in the European Parliament and is a member of EU.

¹ "Scotland", *Where Is Scotland?*, last accessed 27 April 2016 <http://www.scotland.org/about-scotland/where-is-scotland/>

² "Edinburgh: Inspiring Capital", *Working in Edinburgh*, last accessed 27 April 2016 https://web.archive.org/web/20130224081523/http://www.edinburgh-inspiringcapital.com:80/live/working_in_edinburgh.aspx

³ "The Scottish Government", *Quarterly National Accounts 2014 Q4*, last accessed 27 April 2016 <http://www.gov.scot/Topics/Statistics/Browse/Economy/QNA2014Q4>

II. INTRODUCTION

This research paper, a follow-up to DPI's previous paper on Scottish Devolution published in 2014 entitled "Experiences of Devolution in Scotland"⁴, will look at the constitutional and parliamentary mechanisms of the Scottish Parliament and then proceed to provide insight on the politics of the current Scottish parliament and its relationship with both Westminster and other devolved parliaments in the UK. Moreover, it will look at the effects of the unsuccessful 2014 referendum of independence on Scottish politics of devolution and implications of a potential "Brexit" for Scottish politics.

The act of devolution is the transfer of powers from a central to a regional⁵ authority whereby the devolved territory can make legislative and executive decisions regarding its domestic issues. Attaining parliamentary devolution and executive autonomy are both often considered to be significant events for minority groups in multicultural countries as they mark an increased recognition of identity. However, as important as the declaration of devolution is, the maintenance of this new political system and providing a democratic environment and prosperity for the people of the devolved territory are equally important tasks in order to grant legitimacy to the constitutional change effected. Investigating the aftermath of Scottish devolution in 1997 is, therefore, an essential part of studying the politics of devolution and the prospective advantages and disadvantages of this model of governance.

- Devolution is the transfer of powers from a central to a regional authority
- 22 July 1706: Parliamentary Union between England and Scotland through "Acts of Union"
- 1960s: Oil reserves found in Scottish North Sea
- 1979: First referendum for devolution that was unsuccessful
- 1989: The Scottish Constitutional Convention stating Scotland's right to sovereignty and home rule
- 1997: Second referendum for devolution
- 1998: Scottish Bill of 1998 legitimising the creation of a devolved Scottish parliament
- 2014: "NO" vote for independence

⁴ DPI, "Experiences of Devolution in Scotland: Constitutional Debate up to the 2014 Independence Referendum" (September 2014)

⁵ "Scottish Parliament", *What are the powers of the Scottish Parliament?* Last accessed 27 April 2016 <http://www.scottish.parliament.uk/visitandlearn/12506.aspx>

Historically, parliamentary politics between England and Scotland commenced with the Treaty of Union that was signed between two representatives from the parliaments of England and Scotland on 22 July 1706, which was passed by the Parliament of England in 1706 and by the Parliament of Scotland in 1707. Through this agreement, the Parliaments of Scotland and England was united into one kingdom that was “The Great Britain”. These “Acts of Union” were officially implemented on 1 May 1707 when the newly-formed Parliament of Great Britain inaugurated its agenda.

The fact that the Parliament of Great Britain was (and still is) situated at Westminster sparked controversy from the Scottish nationalists, this being seen as the cessation of the Scottish parliament and the continuation of the English Parliament. Additionally, as the new parliament followed the bicameral parliamentary model of England, rather than the unicameral model of Scotland, the Union was received more so as the English absorption of the Scottish parliament, rather than an equitable agreement giving equal weight to both establishments. These were the first of many criticisms and oppositions that the Scottish secessionists/nationalists directed towards Westminster since the Union. This ever-existent discontent with the mechanisms of the British parliamentary system and its alleged inequality became an important part of Scottish national identity in the following years.

Regardless of the criticisms aimed at this Union, Scotland greatly benefited from it economically, which was the initial rationale for the proposal. Starting in July 1698, the Kingdom of Scotland ventured to send an expedition of five ships to create a colony on the Isthmus of Panama⁶ called the Darien Scheme. However, the scheme proved to be fruitless, as 400 Scottish men were returned dead from the expedition and the remaining faced problems of starvation and attacks from hostile Spaniards. In the end, this expensive scheme was abandoned, damaging the Scottish economy in the process. Together with the loss of the £500,000 investment, the Scottish economy was almost bankrupt. It has been argued that the Darien Scheme crippled the country's economy to such an extent that it triggered the dissolution of the Scottish Parliament and led to the 1707 Act of Union with

⁶“Education Scotland”, *Darien Colony* last accessed 27 April 2016
www.educationscotland.gov.uk/scotlandshistory/unioncrownsparliaments/dariencolony/index.asp

England.⁷ Ever since its inauguration, economic dependence on the richer English economy had been a predominant motivation of unionists and is still a part of discussions regarding fiscal autonomy and independence.

Therefore, it is no coincidence that the first tangible initiative for Scottish devolution came directly after the new economic developments in the region, particularly with the discovery of oil reserves in the Scottish North Sea in 1966 and full production and extraction of oil taking place in the region since 1976. With oil becoming an important part of the Scottish economy, political initiatives to claim rights to the production of these resources began in Scotland at the same time, with the Scottish Nationalist Party's "It's our oil" campaign. The argument claimed that, in order to benefit from this discovery, the Scottish people needed to become independent from the UK. "The idea behind the slogan has proven to be controversial in discussions surrounding the financial viability of an independent Scottish state and still resonates to this day"⁸

This newly-assumed economic capacity paved the way for the first official discussions of devolution in British Politics, with the proposal of the "Scotland Act of 1978" for holding a referendum in 1979 for Scottish devolution. Devolution, by parties such as the SNP, was seen as a route to independence which started to seem more and more likely each day as the Scottish economy gained power and credibility. The Act proposed a Scottish Assembly with limited powers including authority over education, environment, health, home affairs, legal matters and social services. Despite the strong public support, the referendum was altered by an amendment - introduced by the Labour MP George Cunningham - which provided that the Government must repeal the Scotland Act if fewer than 40 per cent of those entitled to vote opted to vote "Yes". This, as critics pointed out at the time, attached weight to those who decided to vote No for whatever reason.⁹ Due to this arrangement,

⁷ "Historic UK", *Darien Scheme* last accessed 27 April 2016 <http://www.historic-uk.com/HistoryUK/HistoryofScotland/The-Darien-Scheme/>

⁸ Thomas W. Walde, "Scotland's Oil: Does Oil in Scotland Have a Future?", <http://www.eisourcebook.org/cms/Jan%202013/UK,%20Does%20Oil%20in%20Scotland%20have%20a%20future.pdf>

⁹ "BBC", *Scottish Devolution*, last accessed 27 April 2016 <http://www.bbc.co.uk/news/special/politics97/devolution/scotland/briefing/scotbrief1.shtml#1979>

even though the “Yes” vote prevailed in the referendum with 51.62 per cent of the votes, the Act was repealed as the voter turnout was only 64 per cent.

In 1989, the Scottish Constitutional Convention was formed stating Scotland’s right to sovereignty and home rule. This convention produced two reports on the mechanisms and procedures of a prospective Scottish Parliament, its electoral system and its inter-parliamentary relationships, titled “Towards Scotland’s Parliament” and “Scotland’s Parliament, Scotland’s Right”. These papers eventually formed the basis for the 1997 referendum, producing a cross-party platform to discuss the prospects of devolution. In July 1997, plans for a devolved parliament were published in a white paper titled “Scotland’s Parliament”. The referendum resulted in a decisive victory for the “Yes” vote with 74.3 per cent of the voters marking the box “I agree that there should be a Scottish parliament”, and 63.5 per cent of voters agreeing that this parliament should have tax-varying powers. After the “Yes” vote, the aforementioned white paper was put into law with the Scottish Bill of 1998, legitimising the creation of a devolved Scottish parliament.

The most recent development on the issue of Scottish devolution has been the referendum for Scottish independence that was held in 2014. Processes towards the referendum officially commenced with “The Edinburgh Agreement” which was signed on 15 October 2012. This agreement gave rights to the Scottish people to hold a referendum on Scottish independence. The question on the ballot was “Should Scotland be an independent country?”. “Yes Scotland” became the prevalent campaign for independence, whilst the “Better Together” campaign represented the opposition. The state of the Scottish economy was an important point of discussion in the referendum process. Spokesperson for the Scottish Socialist Party and a supporter of independence Colin Fox said in January 2014 that “We are governed by those without a mandate to do so and are penalised by an economic model biased towards the South East of England that has failed us over decades.”¹⁰ Similarly, in terms of democracy, supporters of independence, throughout the campaign, stressed the existence of a “democratic deficit” in the United Kingdom in regards to the rights of the Scottish people. Scottish First Minister Alex Salmond said in September 2013

¹⁰ Scott McNab, “Scotsman”, *Scottish independence will improve prosperity*, last accessed 27 April 2016 <http://www.scotsman.com/news/politics/scottish-independence-will-improve-prosperity-1-3253393>

that “the people who live and work in Scotland are the people most likely to make the right choices for Scotland”¹¹ and that a lack of this opportunity amounted to a significant democratic deficit for Scottish people. In spite of their thorough campaigning, however, the supporters of the “Yes” vote lost the referendum with 55.3 per cent of the Scottish people voting “No”.

With no independence on the near horizon, the current Scottish parliament must deal with problems such as the democratic deficit, economic autonomy and a future British exit from the European Union (“Brexit”) through the mechanisms of their devolved parliament. Gaining insight on the maintenance of devolved parliaments and the perpetuation of democracy through the Scottish example provides important insights on discussions of cultural rights and debates over autonomy.

III. CONSTITUTIONAL AND PARLIAMENTARY MECHANISMS OF THE SCOTTISH PARLIAMENT AND GOVERNMENT

1) The Structure of the Parliament

The current Scottish Parliament was founded on 12 May 1999 after the people of Scotland voted “Yes” to a devolved national parliament in the 1979 referendum. The roots of this parliament go back, however, to the Parliament of Scotland which was the official legislative body of the Scottish people since 1235 until the Acts of Union in 1707. The current Scottish Parliament, like the old Parliament of Scotland, follows a unicameral parliamentary system, as opposed to Westminster’s bicameral parliament. Unicameral parliaments consist of only one chamber or house. Unicameral systems are most common in subnational legislative bodies, such as federations and devolved governments. This is due to a lack of necessity for a multicameral parliament as small regional parliaments do not often have strong societal or ethnic clashes within. Besides the Scottish Parliament, contemporary examples of unicameral subnational parliaments include the Northern Ireland Assembly, the Kurdish

¹¹ Alex Salmond, “New Statesman”, *Why should Scotland let itself be ruled by Tories?* Last accessed 27 April 2016 <http://www.newstatesman.com/2014/02/alex-salmond-why-should-scotland-let-itself-be-ruled-tories>

Parliament in KRG, the National Assembly for Wales and parliaments of the autonomous communities of Spain. As a unicameral parliament, the Scottish Parliament is more efficient and straightforward in its decision-making as the potential of a legislative deadlock is ruled out. However, the system also gives the ruling party a higher authority in decision-making. This makes the Scottish Parliament a more centralised parliamentary body than Westminster.

The Scottish Parliament is situated in Holyrood, Edinburgh. It is made up of 129 elected representatives, who are known as Members of the Scottish Parliament or MSPs.¹² It is the primary legislative body of the Scottish people and it is commissioned to make laws on devolved matters. These matters include; agriculture, civil and criminal justice, education, environment, health, housing, local government, planning, police and fire services, social work, sport and the arts and transport. However, they are still bound to Westminster's decisions on issues such as defence, immigration, foreign affairs and social security. The Scottish Parliament does not have full fiscal autonomy and is dependent on decisions made in Westminster for its fiscal problems. This has been an issue of controversy in the last decade and the current Scottish Parliament campaigns for an expansion of these devolved matters to involve fiscal responsibilities.

The Scottish Parliament;

- Is a unicameral parliament situated in Holyrood, Edinburgh.
- Is made up of 129 elected representatives known as Members of the Scottish Parliament or MSPs.
- Has decision-making authority on devolved matters except defence, immigration, foreign affairs and social security.
- Is chaired by a Presiding Officer.
- MSPs work with cross-party groups (CPGs) and parliamentary committees to discuss specific issues facing the Scottish people and propose, discuss and amend acts of the parliament.
- The executive body of Scotland is The Scottish government which implement laws and propose allocations of the Westminster budget

¹²"The Scottish Parliament", *How the Scottish Parliament works* last accessed 27 April 2016 http://www.scottish.parliament.uk/PublicInformationdocuments/SP_HTSPW_English_Oct_14_web.pdf

The Scottish Parliament elects a Presiding Officer every four years to chair parliamentary meetings with two other MSPs, which are elected alongside the Presiding Officer, acting as Deputy Presiding Officers. “They are best known for chairing proceedings in the Scottish Parliament. This involves swinging their gavel about, shouting ‘order’ a lot, selecting motions and amendments and deciding on speakers during debates. They must also rule on points of order and make sure the MSPs behave themselves in the chamber. The position is seen by some as the most important in Scottish devolution, after the job of the first minister.”¹³ The Presiding Officers also chair the meetings of the Scottish Parliamentary Corporate Body (SPCB) and the Parliamentary Bureau (PB). The SPCB is responsible for administrative duties including managing the staff and facilities of the parliament and providing necessary services. The Parliamentary Bureau, on the other hand, establishes the business programme of the parliament and proposes the establishment, remit, membership and duration of any committee or sub-committee in the parliament.¹⁴

MSPs are elected officials representing the people of their constituencies or regions. Their main duty is to propose and debate new legislations or amendments to existing legislations through cross-party parliamentary committees on devolved matters to serve the best interests of their political party and their constituents. They can represent their constituents by;

- “Lodging a motion to get support for an issue or to put forward for debate in the Parliament
- Attending committee meetings
- Speaking in a debate
- Introducing a bill to change the law
- Proposing an amendment to a bill
- Ask a question of the Scottish Parliament
- Referring matters to, or asking questions of, another person or organisation

¹³ “BBC”, Q&A: Holyrood presiding officer last accessed 27 April 2016, <http://news.bbc.co.uk/1/hi/scotland/6651101.stm>

¹⁴ “The Scottish Parliament, The Parliamentary Bureau and Management of Business, last accessed 27 April 2016 <http://www.scottish.parliament.uk/parliamentarybusiness/26519.aspx>

- Asking a question of the SPCB¹⁵

MSPs attend parliamentary meetings and debates on Tuesdays, Wednesdays and Thursdays while working with their constituencies on Mondays and Fridays. As mentioned before, MSPs work with cross-party groups (CPGs) and committees to discuss specific issues facing the Scottish people. In the Code of Conduct for MSPs, the role of CPGs was outlined as “providing an opportunity for MSPs from across the parties to engage with external stakeholders, primarily to enable the sharing of experiences and information on a particular subject and raise awareness of issues relevant to MSP’s parliamentary duties.”¹⁶ These groups can not formally propose changes to the legislation and they do not have access to parliamentary resources. They function as platforms for not only MSPs from different parties, but also external actors such as individuals or representatives of organisations to engage in discussions to increase parliament-public communication.

Committees, on the other hand, are exclusively parliamentary groups meeting on a regular basis, “to scrutinise the work of the Scottish government, conduct inquiries into subjects within their remit and examine legislation.”¹⁷ The Committees of the Scottish Parliament work is twofold; they comprise both mandatory committees and subject committees. Mandatory committees are established at the beginning of each session and their remits are determined by parliamentary rules.¹⁸ Separately, Subject Committees are committees established in order to deal with a particular subject or area. Members of the Committees are selected in accordance with the number of seats each party has in the parliament. The central role of committees is to scrutinise bills that are proposed, investigate whether a bill should be implemented by the parliament and propose amendments to bills to make them

¹⁵ “The Scottish Parliament”, *How the Scottish Parliament works* last accessed 27 April 2016 http://www.scottish.parliament.uk/PublicInformationdocuments/SP_HTSPW_English_Oct_14_web.pdf

¹⁶ “The Scottish Parliament”, *The Code of Conduct for members of the Scottish Parliament*, last accessed 27 April 2016 <http://www.scottish.parliament.uk/msps/code-of-conduct-for-msps.aspx>

¹⁷ “The Scottish Parliament”, *Scottish Parliament Committees- What are they and what do they do?* Last accessed 27 April 2016 http://www.scottish.parliament.uk/PublicInformationdocuments/SP_WDCD_-_English_-_December_2014.pdf

¹⁸ “The Scottish Parliament”, *Scottish Parliament Committees- What are they and what do they do?* Last accessed 27 April 2016 http://www.scottish.parliament.uk/PublicInformationdocuments/SP_WDCD_-_English_-_December_2014.pdf

eligible to become an “Act of Scottish Parliament”. “They work much more on cross-party lines than do Committees of the Westminster Parliament and there tends to be much more agreement among MSPs from different parties when they are scrutinising or challenging the Government’s legislation as it passes through Parliament”¹⁹ Cross-Party Groups and Committees are, therefore, essential components of the democratic process of the Scottish Parliament.

Despite the importance of these cross-party groups, committees and sub-committees in the democratic process, the central line of communication for MSPs is the debating chamber. Here, MSPs meet to debate issues surrounding Scotland and its legislation. It is where the executive and the legislative of Scotland meet and decide on new laws and question the First Minister and the Cabinet Ministries for their work. These debates enable Scottish people to make their voices heard to the executive branch and make sure that their performance is accordant with the wishes and wills of the Scottish people. It is an indispensable part of the devolved Scottish democracy.

After a bill passes through the committees and the debating chamber, it is submitted by the Presiding Officer to the Queen for royal assent. Then, if royal assent is given, a bill becomes an Act of Scottish Parliament. “Some Acts, or sections of an Act, come into force as soon as royal assent is granted. However, the Scottish Government is often responsible for setting a date or dates on which the Act, or parts of it, will come into force.”²⁰ Ever since its inauguration, the Scottish Parliament has passed over 220 bills to become Acts of the Parliament.

The Scottish Government is the executive body of Scotland. It was established on 1 July 1999 after the first official elections of Scotland. It is normally formed by the political party with most seats in parliament after the elections. Its duties involve implementing laws and policy on devolved matters and proposing allocations for the budget coming from

¹⁹ “BBC”, *Powers of the Scottish Parliament*, last accessed 27 April 2016

http://www.bbc.co.uk/bitesize/higher/modern/uk_gov_politics/gov_sco/revision/1/

²⁰ “The Scottish Parliament”, *How the Scottish Parliament works* last accessed 27 April 2016

http://www.scottish.parliament.uk/PublicInformationDocuments/SP_HTSPW_English_Oct_14_web.pdf

Westminster.²¹ The annual budget of the Scottish Government is 28 billion pounds according to the Scottish Draft Budget of 2015-2016.²² The Scottish Government is led by the First Minister who forms a Cabinet after the elections comprising Cabinet Ministers and Secretaries. It has 22 ministries including Justice, Education, Health, Transport and Housing etc. The Scottish Government is accountable to the Scottish Parliament and indirectly to the people of Scotland for its actions.

Looking at the structure of the current devolved Scottish Parliament, it can be seen that it provides an independent platform for the Scottish people to engage with the problems of the Scottish people without the so-called “democratic deficit” that discussed earlier. Nonetheless, the Scottish case for further devolution continues to be a prominent discussion in the debating chambers. Regardless of the democratic structure of the Scottish Parliament, a lack of independent decision-making in areas that are crucial to Scottish People such as foreign affairs and the fiscal economy still constitutes a major problem for nationalist parties in Scotland.

2) Election Process

Elections are an essential part of democratic systems as they allow people to choose who will represent them in the parliament and hence in the decision-making process and to ensure that the government is accountable for its actions. Therefore, in tracing democratic processes in devolved parliaments, it is necessary to contemplate the electoral system and how it functions. One of the main reasons as to why minority groups often campaign for devolved parliaments is to grant the people of the minority the ability to vote for their own regions and have a say in the issues of their own people. The 1999 Scottish Parliament was the first-ever platform for the Scottish people to elect their own representatives, as the Parliament of Scotland in 1707 was not an elected parliament.

Before devolution, Scottish parties were elected to Westminster and, therefore, were in competition with UK-wide parties for the representation of the Scottish people. Devolution

²¹ “The Scottish Parliament”, *What is the role of the Scottish Government and its ministers*, last accessed 27 April 2016 <http://www.scottish.parliament.uk/visitandlearn/83134.aspx>

²² “The Scottish Government”, *Scottish Budget: Draft Budget 2015-2016*, last accessed 27 April 2016 <http://www.gov.scot/Resource/0046/00462296.pdf>

opened the path for Scottish political parties to be elected and to govern Scottish territories. Many of them discontent with the Westminster electoral system, Scottish politicians after devolution aspired to depart from it, and replace it with a more proportional electoral system. Westminster Parliament follows a “first past the post” system in its parliamentary elections. “Under first-past-the-post, the UK is divided into numerous voting areas, i.e. constituencies, and then the voters put a cross next to their preferred candidate on a ballot paper. Ballot papers are then counted and the candidate that has received the most votes is elected to represent the constituency”.²³ The official website of the Scottish Parliament criticises this system saying that “this system can disadvantage some parties and can allow one party to form a government with an overall majority of seats but at the same time get less than half the votes cast.”²⁴

- Before devolution, Scottish parties were elected to Westminster and were in competition with UK-wide parties for the representation of the Scottish people
- Devolution opened the path for Scottish political parties to be elected and to govern Scottish territories
- The Scottish Parliamentary elections use a proportional representational system called “Additional Member System” (AMS) where each electorate has two votes; one for their constituency and one for the region.
- Each person gets to choose 8 MSPs to represent them.
- Out of the 129 MSPs 73 of them are from constituencies and 56 of them are from the eight parliamentary regions of Scotland.
- The next elections for the Scottish Parliament will be held on 5 May 2016/

The electoral process of Scottish parliament functions differently. It uses a more proportional representational system called “Additional Member System” (AMS), that was used in Germany after the World War II. In the AMS, each electorate has two votes; one for their constituency and one for the region. The Scottish elections are held every four years. For the first vote, each constituency elects one MSP who is elected by the “first-past-the-post” system. Then, for the second vote, the electorate votes for a political party for their region who will then send seven regional MSPs to the parliament. As a consequence of the second vote, “the parties are allocated a number of additional members to make the overall

²³ “UK Parliament”, *Voting systems in the UK*, last accessed 27 April 2016 .

<http://www.parliament.uk/about/how/elections-and-voting/voting-systems/>

²⁴ “The Scottish Parliament”, *The Electoral System for the Scottish Parliament*, last accessed 27 April 2016 <http://www.scottish.parliament.uk/visitandlearn/Education/16285.aspx>

result more proportional”²⁵ In total, each person living in Scotland gets to choose eight MSPs to represent them in the Scottish Parliament. Out of the 129 MSPs, 73 of them are from constituencies and 56 of them are from the eight parliamentary regions of Scotland.

A comparison of vote shares and seats by parties in Scotland between 1997 and 1999 reveals the efficacy of the AMS system. In 1997, the percentages of votes for the Labour Party, Conservative Party, Liberal Democrat Party and SNPs were respectively, 45.6 per cent, 17.5 per cent, 13.0 per cent and 22.1 per cent and the number of seats won in Westminster were 56 by Labour, 10 by Liberal Democrat and 6 by SNP. The Conservative party, despite having 17.5 per cent of the votes had zero seats in the parliament. In 1999, the proportion of seats in the newly-formed Scottish Parliament was more balanced. The Labour Party won 38.8 per cent of the votes in the first votes and 33.6 per cent in the second. The Conservative Party, Liberal Democrat Party and SNP have received respectively 15.6 per cent, 14.2 per cent, 28.7 per cent of the votes in the first and 15.4 per cent, 12.4 per cent and 27.3 per cent in the second votes. In the end, the Scottish Parliament had 56 Labour seats, 18 Conservative seats, 17 Liberal Democrat seats and 35 SNP seats. Hence statistically, the proportionality system functioned. The AMS system was expected to prevent “one party to get an overall majority and, therefore, make the coalitions more likely”. However, the Scottish National Party, as of 2016, holds a majority in the Scottish Parliament with 65 out of 129 seats. This rise of the Scottish Nationalist Party after devolution has been explained as the “priming effect”. They argue that “electoral campaigns for devolved elections have a “priming” effect in that they raise the salience of nationalist parties and national considerations, whereas Westminster elections prime voters to think about United Kingdom-wide considerations and the United Kingdom-wide parties”.²⁶

The next elections for the Scottish Parliament will be held on 5 May 2016. These elections will be the fifth general election since the devolution of the Scottish Parliament and the first election since SNP’s parliamentary majority and the unsuccessful Scottish independence referendum. It will show whether SNP’s majority was an exception to the AMS system or

²⁵ “The Scottish Parliament”, *The Electoral System for the Scottish Parliament*, last accessed 27 April 2016 <http://www.scottish.parliament.uk/visitandlearn/Education/16285.aspx>

²⁶ Richard Wyn Jones and Roger Scully, “Devolution and Electoral Process in Scotland and Wales” *Publius Vol 36, No 1 (Winter, 2006)*, pp.115-134

whether its promise of electoral proportionality is ineffective against rising Scottish nationalism. Regardless of the result, the autonomy of Scottish people in choosing their own MSPs will continue to be an important achievement for democratic progress in Scotland.

3) Intergovernmental Relations (IGR)

As a devolved government of the United Kingdom, the Scottish Government has to be in regular contact and communication with Westminster and other devolved governments; National Assembly for Wales and The Northern Ireland Assembly. When these separate governments face common issues, have overlapping responsibilities or disputes that need to be prevented or resolved, they seek to communicate and cooperate to address these issues together. In managing the internal and external affairs of the United Kingdom, therefore, the input of the devolved administrations and intergovernmental relations (IGR) play a crucial role.

Traditionally, intergovernmental relations in the United Kingdom are conducted informally. Director General for Strategy & External Affairs for the Scottish Government Ken Thomson asserts that “a great deal of what we call IGR in this context actually happens below the waterline, in day-to-day contacts between ministers and officials on a bilateral basis and ultimately in ad hoc meeting or communications between ministers.” Despite the existence of formal structures, bilateral communication and ad hoc meetings and communications form the basis of intergovernmental relations in the UK and in particular, with Westminster and the Scottish Parliament.

The formal aspect of intergovernmental relations in the UK is based upon an agreement called “Memorandum of Understanding” that was first established in 1999 after the Scottish devolution, but later redrafted in 2000,2001,2010,2012 and 2013. The paper comprises a “series of agreements between the UK Government, and the devolved administrations in Scotland, Wales and Northern Ireland setting out the principles which underlie relations between them.”²⁷ It’s a legally non-binding agreement that outlines “procedures for communication, consultation and cooperation between the UK and devolved

²⁷ Devolution: Memorandum of Understanding and Supplementary Agreements, agreed on October 2012

administrations and to set out arrangements for the exchange of information, statistics and research as well as setting out confidentiality arrangements in relation to the information which governments provide to each other.”²⁸ Memorandum of Understanding commits the UK and devolved administrations to good communication, cooperation, political engagement and transparent information sharing. Due to the arrangements of devolution, UK government still maintains policy responsibility for non-devolved areas. The memorandum enables secretaries of states for Scotland, Wales and Northern Ireland to properly represent the interests of the people of devolved parliaments in non-devolved matters. Especially in regards to international and EU relations, UK government “recognises that the devolved administrations will have an interest in international and European policy making in relation to devolved matters”.²⁹ It promises that “the UK will involve the devolved administrations as fully as possible in discussions about the formulation of the UK’s policy position on all EU and international issues which touch on devolved matters.”³⁰

- Traditionally, between UK and Scotland, intergovernmental relations (IGR) is conducted informally through bilateral and ad hoc meetings.
- The formal aspect of IGR in UK is based upon an agreement called “Memorandum of Understanding” that outlines the procedures for communication, consultation and cooperation between the UK and devolved administrations
- The formal structure of IGR in UK is called the Joint Ministerial Committee (JMC) that provides a platform for the heads of government of UK and devolved administrations to meet and discuss issues affecting the United Kingdom.
- JMC has two formal subcommittees; a Joint Ministerial Committee dealing with domestic policy (JMC(D)) and a Joint Ministerial Committee dealing with the European Union (JMC(E))
- Memorandum of Understanding additionally established two bilateral structures to manage the relations between Scotland and UK called UK-Scotland Joint Exchequer Committee and a Joint Ministerial Working Group on Welfare.
- David Cameron’s new Smith Commission 2014 proposes several reforms to the IGR between Scotland and the UK.

²⁸ Devolution Committee, Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations, published on 17 November 2015

²⁹ Devolution: Memorandum of Understanding and Supplementary Agreements, agreed on October 2012

³⁰ Devolution: Memorandum of Understanding and Supplementary Agreements, agreed on October 2012

The formal structure that Memorandum of Understanding entails is called Joint Ministerial Committee (JMC). Even though bilateral and multilateral ad hoc meetings encapsulate majority of intergovernmental relations in the UK, Memorandum of Understanding advocates some central co-ordination of the overall relationship. JMC consists of the UK Government, Scottish, Welsh and Northern Ireland Ministers.

Its terms of reference are;

- “to consider non-devolved matters which impinge on devolved responsibilities, and devolved matters which impinge on non-devolved responsibilities.
- where the UK government and the devolved administrations so agree, to consider devolved matters if it is beneficial to discuss their respective treatment in the different parts of the United Kingdom
- to keep the arrangements for liaison between the UK government and the devolved administrations under review; and
- to consider disputes between the administrations”³¹

JMC provides a platform for Heads of Governments of UK and devolved administrations to meet and discuss issues affecting the United Kingdom. The JMC is required to hold a meeting at least once a year, attended by the UK Prime Minister, Scottish and Welsh First Ministers and Northern Ireland First Minister. JMC has two formal subcommittees; a Joint Ministerial Committee dealing with domestic policy (JMC(D)) and a Joint Ministerial Committee dealing with the European Union. (JMC(E)). In addition “although not formally a body governed by the terms of the Memorandum, a further forum of Finance Ministers – the Finance Ministers Quadrilateral (FMQ) also convenes periodically to consider financial issues.”³²

³¹ Devolution: Memorandum of Understanding and Supplementary Agreements, agreed on October 2012

³² Devolution Committee, Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations, published on 17 November 2015

In addition to formal multilateral arrangements, Memorandum of Understanding recently established two bilateral structures to manage the relations between Scotland and UK, particularly in regards to new devolved powers. A UK-Scotland Joint Exchequer Committee and a Joint Ministerial Working Group on Welfare established respectively in 2011 and 2015, to facilitate the transfer of tax and borrowing powers and to discuss arrangements for transferring social security powers and managing shared responsibilities on welfare.

The Memorandum of Understanding and its formal structure “Joint Ministerial Committee” faced numerous criticisms from both sides of the UK-Scotland relationship. House of Lords Constitution Committee declared; “it is clear that, while some parts of the JMC structure work better than others, in the eyes of the devolved administrations, at least, the way the JMC system works at present is not satisfactory.” Similarly, Professor Aileen McHarg of the University of Strathclyde in Scotland alleges that lack of parliamentary scrutiny is a particular weakness in IGR. “Neither the Scottish Parliament nor the UK parliament has taken any consistent interest in scrutiny of intergovernmental relations. There have been some ad hoc inquiries but that’s all.”³³

The report of the Smith Commission, that was established by British Prime Minister David Cameron after the 2014 referendum to converse about further devolution of powers to Scottish Parliament refers to these problems and criticisms to improve intergovernmental relations. It asserts that “these increased powers (that is discussed in Smith Commission) demand improvements in parliamentary scrutiny and strengthened collaboration between the Scottish and UK government (...) Both governments need to work together to create a more productive, robust, visible and transparent relationship.”³⁴ The commission proposes several reforms to the intergovernmental relationship between the UK and Scotland. These reformed arrangements will;

- “include the development of a new and overarching Memorandum of Understanding between the UK and devolved administrations which will

³³ The Scottish Parliament; Devolution (Further Powers) Committee, ‘Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations’, (2015).

³⁴ “The Smith Commission Report”, *Report of the Smith Commission for further devolution of powers to the Scottish Parliament*, published on 27 November 2014

- lay out details of the new bilateral governance arrangements which will be required to oversee the implementation and operation of the tax and welfare powers to be devolved by way of this agreement.
 - Provide for additional sub-committees within the strengthened JMC structure beyond the current sub-committees
- “be underpinned by much stronger and more transparent parliamentary scrutiny, including;
- the laying of reports before respective parliaments on the implementation and effective operation of the revised MoU
 - the pro-active reporting to respective Parliaments, of, for example, the conclusions of Joint Ministerial Committee, Joint Exchequer Committee and other inter-administration bilateral meetings established under the terms of this agreement.
- Provide for more effective and workable mechanisms to resolve inter-administration disputes in a timely and constructive fashion with a provision for well-functioning arbitration processes as a last resort.”³⁵

Intergovernmental Relations is an integral part of politics of devolution. Further cooperation, coordination and transparency on devolved and non-devolved matters enables better democratic representation and engagement for Scottish people on issues they face together with other governments. Thereupon, results and the implementation of a renewed Memorandum of Understanding that was outlined in the Smith Commission Report will be an important part of the debates over Scottish Devolution in the upcoming years.

³⁵ “The Smith Commission Report”, *Report of the Smith Commission for further devolution of powers to the Scottish Parliament*, published on 27 November 2014

IV. ECONOMIC AND POLITICAL SITUATION IN SCOTLAND

1) The Current Parliament and The Question of Further Devolution

The current Scottish parliament is led by the Scottish National Party (SNP) with 69 seats in the Parliament. They are closely followed by the main opposition party Scottish Labour (SLP) with 37 and Scottish Conservative and Unionist Party (SCon) with 15 seats. The last election of the Parliament was held on the 5 May 2011 and the majority government that was established by the Scottish National Party was perceived as a surprising development for both Scotland and Westminster, clearing the way for a referendum on independence that was the headline of the SNP's election campaign. The election results were "a conjunction unforeseen by the architects of devolution in the first Blair government, who deliberately chose a broadly proportional electoral system so as to minimise the risk of a nationalist majority in the parliament ever moving Scotland toward independence."³⁶ Therefore, analysing the state of current Scottish Parliament and its politics within is fundamental to learn the future of devolution considering the presence of a more assertive party on the lead. Even though the SNP lost the 2014 independence referendum with 55.3 per cent of the electorate voting "No", it is nevertheless significant to consider the impact of a nationalist party campaigning for greater autonomy on the issues of devolution.

Alex Salmond, as the leader of the Scottish National Party, resumed his position as the fourth first minister of Scotland after 2011 elections, being one of the foremost advocates of the independence campaign for years. However, after losing the referendum, he resigned from his position, saying: "It is important to say that our referendum was an agreed and consented process and Scotland has by a majority decided not at this stage to become an independent country.' He called on the main unionist parties to make good on their promises of greater powers being devolved to the Scottish parliament."³⁷ The Scottish Independence campaign was not only one man's aspiration, therefore, it is sensible to

³⁶ "LSE Blogs", *Recent interventions into the referendum debate highlight the difficulties in Alex Salmond's plans for an independent Scotland* last accessed 28 April 2016

<http://blogs.lse.ac.uk/politicsandpolicy/tag/alex-salmond/feed/>

³⁷ "BBC", *Alex Salmond: Triumph for the democratic process*, last accessed 28 April 2016

<http://www.bbc.co.uk/news/uk-scotland-29272430>

expect further campaigning for greater devolution by the SNP government even in the absence of Salmond. The current Scottish government, after the resignation of Salmond, is led by Nicola Sturgeon, the previous leader of the Scottish National Party in the Scottish Parliament from 2004 to 2007 and the fifth First minister of Scotland. Following the resignation of Salmond, Sturgeon declared, consolidating the continuing role of the SNP in furthering devolution and aims for secession of the Scottish government, that "further devolution is the route to independence", further claiming that "the more responsibilities we can demonstrate Scotland is capable of successfully discharging, – and the more these are used to build a fairer country and more economic opportunity for all."³⁸

- The current Scottish Parliament is led by the Scottish National Party (SNP) with 69 seats in the parliament, followed by the Scottish Labour (SLP) with 37 and the Scottish Conservative and Unionist Party (SCon) with 15 seats.
- Nicola Sturgeon is the current First Minister of the Scottish Parliament after Alex Salmond resigned due to SNP's loss in the Scottish Independence Referendum 2014
- During the election campaign, David Cameron, alongside with other unionist party leaders pledged to devolved Scotland more powers if it decides to stay in UK, known as "the Vow".
- Cameron announced the creation of a commission called "The Smith Commission" which published a paper called "The Smith Commission Report" on 27 November 2014 to propose three heads of agreement for the further devolution of the Scottish Parliament;
 - o Providing a durable but responsive constitutional settlement for the governance of Scotland
 - o Delivering prosperity, a healthy economy, jobs and social justice
 - o Strengthening the financial responsibility of the Scottish Parliament
- The new powers devolved to the Scottish Parliament are expected to come into force from April 2017 after numerous amendments from the House of Lords and House of Commons

During the last days of the referendum campaign, David Cameron- alongside with other unionist party leaders Nick Clegg and Ed Miliband- pledged to devolve Scotland more

³⁸ "BBC", *Scotland's Deputy First Minister says Scottish independence is impossible*, last accessed 28 April 2016 <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-29498077>

powers if it decides to stay. This pledge was publicly known as “the Vow”. On 19 September 2014, after the “No” vote, Cameron announced the creation of a commission to specifically deal with this issue, called the Smith Commission. The Commission called for cross-party talks between representatives from Scotland and UK to “facilitate an engagement process across Scotland to produce, by 30 November 2014, Heads of Agreement with recommendations for further devolution of power to the Scottish Parliament”³⁹ Lord Smith of Kelvin was asked to lead the commission and discuss and decide the new terms of devolution with five main parties of the Scottish Parliament; Conservative, Green, Labour, Liberal Democrat and the SNP. On the introduction of the Smith Commission Report, he asserts that “in doing so (leading the commission), I sought to give a voice to the public and the various organisations that make up the fabric of Scottish life.”⁴⁰

After reaching an agreement, the Smith Commission published the report known as “the Smith Commission Report” on 27 November 2014. The report first put out a set of principles to guide the work of the commission and its conclusions. According to the report, Smith Commission process should:

- 1) Form a substantial and cohesive package of powers, enabling the delivery of outcomes that are meaningful to the people of Scotland
- 2) Strengthen the Scottish devolution settlement and the Scottish Parliament within the UK (including the Parliament’s levels of financial accountability)
- 3) Aim to bring about a durable but responsive democratic constitutional settlement, which maintains Scotland’s place in the UK and enhances mutual cooperation and partnership working.
- 4) Not be conditional on the conclusion of other political negotiations elsewhere in the UK
- 5) Not cause detriment to the UK as a whole nor to any of its constituent parts.
- 6) Cause neither the UK government nor the Scottish government to gain or lose financially simply as a consequence of evolving a specific power.

³⁹ “The Smith Commission”, *About* last accessed 28 April 2016 <https://www.smith-commission.scot/about/>

⁴⁰ “The Smith Commission Report”, *Report of the Smith Commission for further devolution of powers to the Scottish Parliament*, published on 27 November 2014

- 7) Be implementable; be compatible with Scotland's and the UK's international obligations, including EU law; and be agreed with a broad understanding of the potential associated costs.⁴¹

The report proposes three heads of agreement for the further devolution of the Scottish parliament;

- 1) Providing a durable but responsive constitutional settlement for the governance of Scotland
- 2) Delivering prosperity, a healthy economy, jobs and social justice
- 3) Strengthening the financial responsibility of the Scottish Parliament⁴²

After the victory of Conservative Party in the UK General Election, David Cameron announced the Scotland Bill 2015-2016 to put the heads of agreement of the Smith Commission report into effect. Through the bill;

- 1) The permanence of the Scottish Parliament is recognised, with a referendum needed in order to abolish it
- 2) Devolve powers to set the rates and bands of income tax on non-savings and non-dividend income
- 3) A share of VAT receipts in Scotland will be assigned to the Scottish Government's budget
- 4) Powers over certain aspects of welfare and housing related benefits will be devolved
- 5) Control of the functions of the British Transport Police, Ofcom and the management of the Crown Estate relating to Scotland will be devolved
- 6) The Scottish Parliament will be given powers over abortion laws and welfare foods
- 7) Holyrood will take control of its electoral system, subject to a two-thirds majority within the parliament for any proposed change.⁴³

⁴¹ "The Smith Commission Report", *Report of the Smith Commission for further devolution of powers to the Scottish Parliament*, published on 27 November 2014

⁴² "The Smith Commission Report", *Report of the Smith Commission for further devolution of powers to the Scottish Parliament*, published on 27 November 2014

⁴³ "BBC", *Devolution Committee recommends Scotland bill approval* last accessed 28 April 2016
<http://www.bbc.co.uk/news/uk-scotland-scotland-politics-35773321>

The new powers devolved to the Scottish Parliament are expected to come into force from April 2017 after numerous amendments from the House of Lords and House of Commons. After the proposal of the bill, former Prime Minister Gordon Brown asserted that “It is now time to move on from talking about new powers to using the new powers. Now that the Smith Commission proposals are being delivered, the Scottish government should focus on delivering for the people of Scotland.”⁴⁴ However, considering the stern criticisms the Bill face from the ruling Scottish National Party, it can be argued that the questions of further devolution and independence will continue maintaining their presence in the agendas of Scottish MSPs.

2) The SNP’s perspective on devolution

SNP, the current leading party in the Scottish Parliament, is the most vocal opponent of the Smith Commission and the Scotland Bill 2015-16. Ever since their landslide victory in the 2011 elections, SNP has been in search for a more ambitious set of powers for Scotland, that were detailed in their manifesto.⁴⁵ After SNP’s strong victory in the UK General Elections in 2015, First Minister of Scotland Nicola Sturgeon asserted that, “the massively changed political circumstances in Scotland provide a mandate for substantial further powers beyond those recommended by the Smith process.”⁴⁶ SNP, a party traditionally approached to the process of devolution as a means to achieving independence, rather than a way of compromise between Holyrood and Westminster, is dissatisfied with the limited provisions of the Scotland Bill 2015-2016. Angus Robertson, SNP’s leader in Westminster, said: “The Scotland Bill published by the UK government is woefully lacking- failing to meet even the limited powers set out in the Smith Commission and failing far short of the aspirations of people in Scotland as expressed so firmly at the general election.”⁴⁷ Sturgeon, in her plan for

⁴⁴ “BBC”, *Scotland Bill amendments outlined by UK government* last accessed 28 April 2016 www.bbc.co.uk/news/uk-scotland-scotland-politics-34693123

⁴⁵ “The Guardian”, *SNP dissatisfied with devolution of powers outlined in Queen’s speech* last accessed 28 April 2016 <http://www.theguardian.com/politics/2015/may/27/snp-dissatisfied-with-devolution-of-powers-outlined-in-queens-speech>

⁴⁶ “Financial Times”, *SNP dissatisfied with Cameron’s devolution plans* last accessed 28 April 2016 <http://www.ft.com/cms/s/0/0ec1a8fc-0472-11e5-a5c3-00144feabdc0.html#axzz476xUfu2D>

⁴⁷ “STV News”, *SNP MPs push for more Scotland bill powers at Westminster* last accessed 28 April 2016 <http://stv.tv/news/politics/news/1322453-snp-mps-to-push-for-more-scotland-bill-powers-at-westminster/>

further devolution, demands further control over business taxes, employment legislation, the minimum wage and welfare.⁴⁸

SNP on devolution:

- In search for a more ambitious set of powers for Scotland, including full fiscal responsibility (devo-max).
- SNP is dissatisfied with the arrangements of Smith Commission and the consequent Scotland Bill 2015-2016.
- SNP approaches to the process of devolution as a means to achieving independence, rather than a means of compromise between Holyrood and Westminster.
- If SNP gets re-elected in the May 2016 elections, it will likely push forward their agenda for further devolution and even a new bid for independence.

Opposition on devolution:

- The Scottish Labour, as opposed to SNP, sees devolution as a means of strengthening the union, rather than a medium for making a case for independence.
- The Scottish Labour vies to devolve more power to the Scottish Parliament.
- The Scottish Conservative Party takes a similar unionist approach and advocates the strengthening of devolution and its democratic advantages through means of staying in the union and making collective decisions with the UK government.

Economics of Scotland:

- Ever since the 1960s, the economy of Scotland and the cases for independence and fiscal devolution were based on rich oil resources found in the North Sea
- However, since the "No" vote, the Scottish economy and specifically the oil industry have been facing problems
- Plummeting oil prices and consequent low revenue projections led unionist parties to strengthen their cases for the efficiency of staying in the union

The issue of full fiscal autonomy (or devo-max) is in the centre of further devolution debates in the SNP headquarters. Full fiscal autonomy would give "Holyrood the power over most reserved matters, except defence and foreign affairs."⁴⁹ It would see all taxes other than VAT and National Insurance to be passed to Scotland where Scotland can create its own

⁴⁸ "Financial Times", *SNP dissatisfied with Cameron's devolution plans* last accessed 28 April 2016 <http://www.ft.com/cms/s/0/0ec1a8fc-0472-11e5-a5c3-00144feabdc0.html#axzz476xUfu2D>

⁴⁹ "Independent", *Scottish independence: what is devo max?* Last accessed 28 April 2016 <http://www.independent.co.uk/news/uk/scottish-independence/scottish-independence-what-is-devo-max-9733931.html>

package of taxes for the Scottish Economy.⁵⁰ Next year's general elections in Scotland will have a huge impact on politics of devolution. If SNP gets re-elected and consolidates its position as the leading party of Holyrood, they will more likely to push forward their agenda for further devolution and even a new bid for independence, depending on the result of this election and the referendum for EU exit in summer of 2016.

3) Opposition's Perspective on Devolution

Scottish Labour Party is the main opposition party in the Scottish Parliament with 69 of the seats in the parliament, followed by Scottish Conservative Party with 23 seats. Scottish Labour, as opposed to SNP, sees devolution as a means of strengthening the union, rather than a medium for making a case for independence. They believe in devolving more power for Scottish people where it is in the interest of them while staying in a strengthened union. In Scottish Labour's submission to the Smith Commission, Leader of the Scottish Labour Johann Lamont wrote; "Labour is a party of both devolution and the union. For over 100 years, Labour has led the argument for Scottish devolution within the union, and it is a cause we have advanced out of deep-seated conviction. That is why it was a Labour Government which set up the Scottish Parliament, delivering on what John Smith memorably called 'unfinished business.'"⁵¹ Despite their inherent contradiction with SNP on their policies towards Scottish independence, Scottish Labour, similar to SNP, also vies to devolve more powers to the Scottish Parliament. Being an important member of the "better together" campaign leading to the referendum in 2014, the Scottish Labour "has promised to raise taxes for the wealthy, block cuts in business taxes, increase spending on housing bid to secure a no vote in September's independence referendum."⁵²

The Scottish Conservative Party, similarly, takes a unionist approach on the issue of devolution and advocates the strengthening devolution and its democratic advantages

⁵⁰ "BBC", *Scottish independence referendum: what is devolution max?* last accessed 28 April 2016 <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-17094333>

⁵¹ "Scottish Labour", *Scottish Labour's submission to the Smith commission* last accessed 28 April 2016, <http://www.scottishlabour.org.uk/blog/entry/scottish-labours-submission-to-the-smith-commission>

⁵² "The Guardian", *Scottish Labour 'to energise devolution' if Scotland says no to independence* last accessed 28 April 2016 <http://www.theguardian.com/politics/2014/mar/18/labour-promises-energise-devolution-scotland-independence>

through means of staying in the union and make collective decisions with the UK government. According to Scottish Conservatives, not only independence is a wrong path for Scotland to take, it also is detrimental to the collective interests of the citizens of United Kingdom. Current leader of the Scottish Conservatives, in her speech made at the Royal Society of Edinburgh in 2013 reiterated this idea by declaring; “Each of us is guided by a desire to serve Scotland and the aspirations of its people. But we must differ with those of our fellow Scots, who believe, however sincerely, that those aspirations are best served by independence for Scotland. Scotland has been- and continues to be- well served by the membership of United Kingdom. Our progress as a nation has been achieved in partnership with England, Wales and Northern Ireland.”⁵³ As seen, despite their inherent contradictions of ideology, main opposition parties of Scotland, as opposed to SNP’s instrumentalist take on devolution, promote coexistence and democratic representation through means of strengthening devolution.

4) Economics of Scotland

As mentioned above, ever since 1960’s, the economy of Scotland, and consequently the cases for independence and fiscal devolution that related to it, was based on rich oil resources found in the North Sea. A common argument that is largely advocated by parties such as the SNP is that the North Sea oil is a massive resource for revenue for Scotland and it has the potential to be the cornerstone of the economy of a potentially independent Scotland. “Back in 2014, Alex Salmond insisted that the North Sea contained 24 billion barrels of oil equivalent reserves and that whatever the short-term volatility of the oil price, higher prices would prevail and form a cornerstone of the Scottish economy.”⁵⁴ Nicole Sturgeon, his successor, made similar projections about the future of the Scottish economy in the run up to the independence referendum 2014. However, ever since the “no” vote, the Scottish economy and specifically the oil industry have been facing problems, which for some were a sign that staying in the UK was a good choice, economically. The SNP’s

⁵³ “Scottish Conservatives”, *Strengthening devolution, taking Scotland forward* last accessed 28 April 2016 <http://www.scottishconservatives.com/2013/03/strengthening-devolution-taking-scotland-forward/>

⁵⁴ George Magnus, “Prospect”, *The SNP’s economic case if draining away* last accessed 28 April 2016 <http://www.prospectmagazine.co.uk/blogs/george-magnus/the-snps-economic-case-is-draining-away-saudi-arabia-iran-middle-east-european-union-referendum>

predictions on oil revenues based on a price of over 110\$ a barrel, has dropped to around 30\$ in 2015.⁵⁵ After plummeting oil prices and consequent low revenue projections for 2015-2016, unionist parties have strengthened their cases for the efficiency of staying in the union and the insufficiency of the North Sea oil for being the basis of Scottish economy. “Scottish Labour spokeswoman, Jackie Billie, said: These new figures blow the SNP’s policy of full fiscal autonomy out of the water. We know cutting ourselves off from UK-wide taxes would blow a £7.6bn hole in Scotland finances.”⁵⁶ Similarly, Fraser Nelson from Spectator wrote “Scotland is today safe – it’s part of the UK, the greatest alliance of nations in history, nations that pool their resources and their risk to help each other get through times like these. As Alistair Darling so rightly said: better together.”⁵⁷ One can see that in the debates revolving around full fiscal autonomy, devolution and independence, the question of North Sea oil and whether an independent or fiscally devolved Scotland can sustain itself economically are important questions asked, and the recent plummet in oil prices will indeed have a decisive impact in the 2016 elections for Holyrood this summer, and subsequently, on the future of Scotland. George Eaton in his article on plummeting oil prices writes, “The defining divide is no longer between left and right, but between unionist and nationalist.”⁵⁸ The debates surrounding economic sustainability and providing a prosper democratic environment for citizens of Scotland are exacerbated via the growing divide.

⁵⁵ “The Telegraph”, *Nicola Sturgeon claims case for independence was never about oil* last accessed 28 April 2016 <http://www.telegraph.co.uk/news/politics/SNP/12118733/Nicola-Sturgeon-claims-case-for-independence-was-never-about-oil.html>

⁵⁶ “Independent”, *SNP hopes of full fiscal autonomy dealt blow by slump in North Sea oil revenues* last accessed 28 April 2016 <http://www.independent.co.uk/arts-entertainment>

⁵⁷ Fraser Nelson, “Spectator”, *Collapse in North Sea revenues destroys the SNP’s economic argument* last accessed 28 April 2016 <http://blogs.spectator.co.uk/2016/03/collapse-in-north-sea-revenues-destroys-the-snps-economic-argument/>

⁵⁸ George Eaton, “New Statesman”, *In Scotland’s new era, nothing can dent SNP* last accessed 28 April 2016 <http://www.newstatesman.com/politics/uk/2016/01/scotlands-new-era-nothing-can-dent-snp>

V. CONCLUSION

DPI's previous research paper on Devolution in the UK, written in 2014, was largely focused on political processes leading up to the devolution and how its terms were negotiated peacefully and democratically. This paper, as a follow-up to the previous paper, sought to explore the consequences of the devolution deal of 1997 and how it impacted the Scottish political life thereafter. After a short summary of devolution and independence politics in Scottish history, the paper tried to explain the constitutional and parliamentary mechanisms of the Scottish Parliament, including the structure of the parliament, the election process and intergovernmental relations. Through these three subheadings, the paper strived to deliberate the advantages and shortcomings of the devolved Scottish Parliament and how it succeeds – if it does- in promoting the democratic interests of the Scottish people living in Scotland, compared to Westminster's treatment of Scottish minorities. By investigating how Holyrood conducts bilateral diplomacy, legislative debates and general elections, the paper asked whether the devolved Scottish parliament was able to maintain democratic values within a sustainable parliamentary and constitutional structure. The second half of the paper focused on contemporary debates in Scottish politics, specifically in regards to debates surrounding further devolution and full fiscal autonomy. It demonstrated the widening gap between SNP's devolution as a means to independence approach and Opposition's devolution as a means to strengthening the union stance and how the cases of these two approaches, particularly after the 2014 independence referendum and leading up to the general elections of 2016, will play a huge role in shaping the future of Scotland. Nonetheless, whether Scotland achieves further devolution (or even independence), or whether it decides that "better together", devolution and further representation for Scottish citizens will be a significant achievement for democracy and minority representation.

VI. ADDENDUM: APRIL – JUNE 2016

The paper published by DPI discussing the constitutional and parliamentary mechanisms of the Scottish government was written in April 2016, prior to the Scottish elections of May 2016 and the EU Referendum of June 2016. As a result some of the information provided in the paper requires updating. The election resulted in a 46.5 per cent victory to the SNP. Since these elections the SNP leader, and First Minister of Scotland, Nicola Sturgeon, has declared a renewed and sustained effort to achieve independence. Despite the defeat of the “Yes” campaign in the 2014 referendum on Scottish independence from the United Kingdom, the possibility of a second referendum is growing more evident, especially with regards to the outcome of the referendum on whether to remain in the European Union in June 2016.

The Scottish Parliament is a democratically elected body comprised of 129 Members of the Scottish Parliament (MSPs). They are elected to four year terms and the current Presiding Officer is Ken Macintosh. The most recent election was in May 2016 received a 55.6 per cent voter turnout and saw the following outcomes:⁵⁹

Party Share %	Total Seats	Change	Vote
SNP	63 (65 needed for majority)	- 6	46.5
Conservative	31	+ 16	22.6
Labour	24	- 13	22.0
Green	6	+ 4	7.8
Liberal Democrat	6	-	0.6
Independent	0	- 1	0.5

Key features:

- 1) Composition of parliament

The current leaders of each party are:

⁵⁹ BBC News, ‘Scotland Election 2016’, Retrieved 21/06/2016 from: <http://www.bbc.co.uk/news/election/2016/scotland>

- Scottish National Party Nicola Sturgeon
- Scottish Conservative and Unionist Party Ruth Davidson
- Scottish Labour Kezia Dugdale
- Scottish Green Party Patrick Harvie
- Scottish Liberal Democrats Willie Rennie

As is visible in the table above, some significant changes took place in this election with the Conservative Party gaining 16 seats and the SNP becoming the largest party. The election produced the third consecutive Parliament to represent five political parties; however, no independent members were elected. There are 45 female MSPs and 2 members of ethnic minorities.⁶⁰ One of the most significant outcomes of the elections was the loss of the SNP's overall majority in Parliament. As a result it must now rely on other parties' support to pass legislation.

2) Role of the Scottish Parliament

The Scottish Parliament can pass laws on devolved issues – that is, those issues that affect day-to-day life in Scotland. These issues include: education and training, environment, health issues, local government, housing and tourism. Comparatively, the Parliament in Westminster can pass laws that are deemed to have UK-wide implications, such as: defence, foreign policy, employment and the Constitution.⁶¹ Following the referendum taken in 2014 on the question of Scottish independence from the UK, a process is underway to devolve greater powers to Scotland in areas such as taxation, welfare and elections.⁶²

3) “Brexit”

On June 23 2016 Britain elected to leave the EU by a vote of 52 per cent to 48 per cent with a 72.16 per cent voter turnout. Scotland voted 62 per cent to 38 per cent to remain as did

⁶⁰ The Scottish Parliament, ‘SPICe Briefing Election 2016’ Retrieved 21/06/2016 from:

http://www.parliament.scot/ResearchBriefingsAndFactsheets/S5/SB_16-34_Election_2016.pdf

⁶¹ The Scottish Parliament, ‘What are the powers of the Scottish Parliament?’ Retrieved 21/06/2016 from: <http://www.parliament.scot/visitandlearn/12506.aspx>

⁶² Scotland Act 2016. Retrieved 21/06/2016 from:

<http://www.legislation.gov.uk/ukpga/2016/11/contents/enacted>

75.29 per cent of London.⁶³ In order to commence the process of leaving the EU, the British government must invoke Article 50 of the Treaty of the European Union which is currently under dispute, as no country has ever left the EU before. Under the Scotland Act of 1998 the Scottish Parliament must consent to measures that could eliminate EU authority in Scotland; however there is considerable dispute as to whether this can be overridden by Westminster.⁶⁴ It is therefore seen by some as a possibility that Scotland could block a British “Brexit”.

Since the vote there have been significant changes to the British political make-up. David Cameron has stepped down as Prime Minister, which will take effect in October 2016. The opposition Labour leadership similarly faces turmoil amid calls for Jeremy Corbyn to resign following the EU referendum outcome.⁶⁵ On June 24, Scotland announced it would commence discussions with the EU to explore possible options to protect Scotland’s place within the EU.⁶⁶

4) Possibility of a second Scottish independence referendum

According to the terms of the 2014 Agreement Scotland has grounds to present a second vote if there is a significant and material change in Scotland’s circumstances, which some see as including the vote to leave the EU.⁶⁷ A withdrawal of the United Kingdom from the EU could provide the impetus to trigger a second vote for independence, and has been mentioned as a possibility by the SNP leader given that 62 per cent of the Scottish population voted to remain. It has been suggested that Holyrood could withhold consent for

⁶³ The Guardian, ‘EU referendum: full results and analysis’ Retrieved 29/06/2016 from: <http://www.theguardian.com/politics/ng-interactive/2016/jun/23/eu-referendum-live-results-and-analysis>

⁶⁴ Vox, “‘Bracksies’”: How Brexit could wind up not happening’, Retrieved 29/06/2016 from: <http://www.vox.com/2016/6/25/12031254/no-brexit-article-50>

⁶⁵ The Telegraph, ‘Jeremy Corbyn urged to quit by Labour grandees as Angela Eagle prepares to spark leadership contest,’ Retrieved 29/06/2016 from: <http://www.telegraph.co.uk/news/2016/06/29/jeremy-corbyn-pmqs-labour-angela-eagle-david-cameron-eu-brexit/>

⁶⁶ The Guardian, ‘Nicola Sturgeon to Lobby EU members to support Scotland’s Remain bid’, Retrieved 29/06/2016 from: <https://www.theguardian.com/uk-news/2016/jun/25/sturgeon-seeks-urgent-brussels-talks-to-protect-scotlands-eu-membership>

⁶⁷ BBC News, ‘EU Referendum: Scotland Backs Remain as UK Votes Leave’, Retrieved 29/06/2016 from: <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-36599102>

the move to leave the EU under the 1998 Scotland Act, although it is not yet clear how binding this veto power is or what impact this would have.⁶⁸ The SNP have vocally stated that pulling Scotland out of the EU when a majority voted to remain would be 'democratically unacceptable'.⁶⁹

However, despite the continued support by many for greater autonomy, the economics of Scottish independence are thought by some to be at a low point: the global oil crash has resulted in a £15 billion hole in the country's day-to-day finances, with a significantly high unemployment rate (compared to the rest of the UK) and a significantly weaker GDP.⁷⁰

5) Other options for Scotland

Being accepted as an EU member state is theoretically feasible for Scotland as they already fulfill the economic and political criteria for membership and Scotland is heavily involved in EU cultural, educative and research programmes, and following the vast majority of EU legislation. However there are two challenges that could potentially impede Scottish membership, firstly the possibility of successfully negotiating with the EU once/if England withdraws. The current scenario is sufficiently precarious that we do not know what criteria the EU would place on Scotland or how difficult new membership might become. Thus far, several political figures within the EU have voiced support for Scotland remaining within the EU, which could work greatly in their favour. The second challenge is the nature of politics within the EU. The feasibility of Scotland joining now as an independent state is arguably much easier than it would have been in 2014. Following "Brexit" the UK has been heavily

⁶⁸ BBC News, 'Nicola Sturgeon says MSPs at Holyrood could refuse Brexit consent', Retrieved 29/06/2016 from: <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-36633244>

⁶⁹ The Week, 'Brexit: Sturgeon to take Scots Remain Question to Brussels' retrieved 29/06/2016 from: <http://www.theweek.co.uk/scottish-independence/55716/brexit-sturgeon-to-take-scots-remain-question-to-brussels>

⁷⁰ The Guardian, 'David Cameron points to risk of Scotland leaving the UK after Brexit', Retrieved 21/06/2016 from: <http://www.theguardian.com/politics/2016/jun/08/david-cameron-raises-risk-scotland-leaving-uk-after-brexit>

criticized, therefore having a pro-EU portion of the UK could work well for the EU to retain an image of cohesion and attractiveness.⁷¹

6) The Future?

Given the significant change in British politics in the aftermath of “Brexit”, we do not currently know with any certainty how Britain, the EU and the world will adapt. Indeed, it is possible that it may take decades before we see the full effects of the decision. Moreover, the vote to leave may trigger other pro-independence and nationalist movements throughout Europe.

CONCLUSION

The above analysis has illustrated that Scotland continues to face considerable changes to its political landscape. The politics of the UK and the EU are shifting drastically and are likely to impact future developments. The implications following “Brexit” are unclear and potentially volatile for global relationships. Scotland remains a key example of devolution and should be viewed as an important case study. The manner in which power has shifted from Westminster to Holyrood through democratic means is evidence of peaceful resolution being possible to address challenging issues, despite the potential complexity of future relationships.

⁷¹ Open Democracy UK, ‘Scotland and the EU Post-Brexit – independent Scotland in the EU or outside with the UK?’, Retrieved 29/06/2016 from: <https://www.opendemocracy.net/uk/kirsty-hughes/scotland-and-eu-post-brexit-independent-scotland-in-eu-or-outside-with-uk>