

**Devolution in the United Kingdom:  
Institutional Change and the New Shape of the British State**

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## **Introduction: The Multinational and Centralized State**

The United Kingdom has a complex history of territorial politics, yet in the second half of the twentieth century appeared to be one of the most centralized of the advanced democracies. For long periods of the 19<sup>th</sup> and 20<sup>th</sup> centuries the whole of the UK was governed directly from the Westminster parliament in London, and in the 1980s a further centralizing drive under Margaret Thatcher led to severe restrictions on the autonomy of even local governments (Bogdanor 1999). At the time of the election of Tony Blair's Labour government, the UK was the clear exception amongst the large advanced democracies in having no significant 'meso' or regional tier of government. The lion's share of political, bureaucratic and economic power was exercised from a relatively compact area of central London: the Westminster parliament, the government ministries in Whitehall, and the City of London and Bank of England just a few minutes walk to the East. In this context, the 'devolution' reforms introduced by the Blair administration from 1997 on appeared as a sharp break with the past.

In fact, the history of the British<sup>1</sup> state is rather more ambiguous and paradoxical than the post-war experience would suggest. Political centralization around the state institutions in London has long coexisted with the persistent cultural, political, and often also institutional distinctiveness of the component nations of the United Kingdom. Unlike neighbouring European nation-states, the British ruling elites never embarked upon the project of administrative and legal uniformization characteristic of the 'Napoleonic' model applied in France, and less successfully in Italy and Spain. Distinctive legal and educational arrangements have survived to this day, particularly in Scotland and Northern Ireland. Scotland and Northern Ireland, despite having no independent monetary policy, have distinctive banknotes, whilst Scotland, Wales, Northern Ireland and England maintain separate national teams in such popular spectator sports as football and rugby, encouraging the expression of separate national identities in popular culture. Even the famously centralizing government of Margaret Thatcher sponsored legislation aimed at protecting and enhancing the use of the Welsh language in education and the media. In short, the United Kingdom state has for the most part avoided the kind of aggressive institutional and symbolic homogenization which in other cases has provoked the emergence of peripheral nationalist movements.

Another characteristic of British history is – perhaps surprisingly – the territorial instability of the state. Although the core of the British nation-state – England and Wales – has survived as a unified political entity since 1536<sup>2</sup>, the boundaries of the state have changed regularly during the intervening five centuries. In 1603 King James VI of Scotland's accession to the English throne (as James I) cemented a dynastic union between the two nations, which led to a formal political union in 1707, when the Scottish parliament was absorbed into the Westminster parliament to create a unified Great Britain. Further changes to territorial boundaries came with the Act of Union of 1800 which incorporated Ireland into the United Kingdom of Great Britain and Ireland<sup>3</sup>, briefly bringing the whole of the British Isles under the umbrella of a single state. This proved unsustainable, as became clear with the emergence of the 'Irish question' as one of the major issues in British politics in the second half of the nineteenth century. The partition of Ireland in 1921, in which six counties in the North of the island remained under British control whilst the rest of Ireland became a 'Free State', left the British state in its present form: the United Kingdom of Great Britain and Northern Ireland. But the terms of partition gave substantial autonomy for Northern Ireland, which had its own parliament

until the Northern Ireland Constitution Act of 1973. The United Kingdom in its present form was therefore governed directly from Westminster only between 1973 and 1999. In other words, the centralized state inherited by Tony Blair's Labour government had only existed for a little over two decades.

This history of territorial changes suggests that the devolution reforms pursued by the Blair government should not be regarded as a revolutionary break with a unitary past, still less as 'constitutional vandalism'. However, they remain significant, with important, and potentially even dramatic, consequences for the workings of the United Kingdom system of government. This chapter will assess this process of territorial reconfiguration at the turn of the twenty-first century, identifying its causes, processes and drawing some tentative conclusions as to its effects.

## **Diversity and the Constitution**

The curious mix of centralization and diversity in Britain's territorial arrangements can only be understood properly by taking into account the constitutional flexibility of the state. The UK is almost unique amongst democracies in lacking a written, codified, constitution, with all that implies (Hopkin 2005). Instead, the British constitution rests on the concept of 'parliamentary sovereignty': the right to rule belongs to the parliament, or strictly speaking, 'the Crown in parliament' (Dicey 1959). Parliamentary sovereignty has a number of implications. First, although the monarchy in principle shares sovereignty with parliament, in modern times parliament has rarely been constrained by royal pressures, and the Crown has reverted to a largely symbolic role, faithfully counter-signing legislation ('Royal Assent'). Second, parliamentary sovereignty implies that no parliament can bind its successors: any piece of legislation (*Act of Parliament*) can be overturned by a future parliament. Third, no other body (except in principle the monarch, although this power has not been used in modern times) can overturn legislation: in particular, this means that the Courts cannot contest laws passed by parliament (although the doctrine of supremacy of European law means the European Court of Justice does have this power, as long as the UK remains within the European Union).

In terms of territorial politics, these constitutional arrangements have two rather contradictory effects. On the one hand, the supremacy of 'parliament' – which means the British parliament in Westminster – makes the UK unambiguously a unitary state, in which ultimate authority rests with the institutions of central government (Bulpitt 1983). In other words, without a major constitutional upheaval, the UK cannot easily move in a federal direction, since the institutions on which to found a federal arrangement – constitutional rules which bind parliament, a territorial chamber, and a judiciary capable of reviewing legislation – are not present. On the other hand, the lack of a written constitution makes for an extremely flexible system of government, based on unenforceable 'conventions' which can, in the best case, evolve and adapt to political circumstances, or laws which can be changed by parliament with simple majority votes (Gamble 2003). Moreover, the lack of constitutional clarity allows institutional anomalies or inconsistencies to persist indefinitely, providing the option of pragmatic inaction in cases where clear definitions could spark political conflict. This flexibility and ambiguity makes it easier to leave intact distinctive institutions in different British territories, defusing political tensions (Rose 1982). At the same time, the ease with which parliament can change the law allows for rapid adaptation to changing political demands. Major changes to the UK state's boundaries, such as the annexation of Ireland in 1800, and its partition in 1921, have been implemented through *Acts of Parliament* passed by simple

majorities of Westminster representatives. Less dramatically, a similarly straightforward legislative process produced the devolution reforms of 1998-9, proposed in the Labour party's election manifesto in 1997, and swiftly legislated soon after the Blair government was elected. The second largest British party, the Conservatives, opposed these reforms, but as a parliamentary minority their objections could be comfortably ignored.

This set of constitutional arrangements may in principle be flexible, but the British system of government does not lack stable characteristics. Indeed the lack of a written constitution is one of the features of the UK state which led Lijphart to define the 'Westminster model' as the paradigmatic case of 'majoritarian democracy', which he counterposed to the power-sharing of 'consensus democracy' (Lijphart 1999). In majoritarian democracy, constitutional arrangements tend to concentrate power around the most successful political party, with few provisions for consultation with minorities. With electoral institutions based on the plurality rule, most parliamentary seats in the House of Commons (the lower house, and only elected chamber of the parliament) have tended to be allocated to the two largest British parties, Labour and the Conservatives. This has enabled the winning party to govern alone with a parliamentary majority throughout the post-war period. In territorial terms, the Westminster model implies a high degree of centralization of political authority, with little specific recognition of ethnic or regional minorities. The way the Westminster model has tended to work has reinforced the dominant position of England within the United Kingdom, since England has 85% of the British population, and therefore the vast majority of parliamentary representation. No party can win a parliamentary majority without winning most of its seats in England, whereas (in the case of the Conservatives) it has been possible to win a majority with relatively little presence outside England.

The UK's majoritarian model of government has come under great pressure in recent decades, both from a territorial point of view and more generally. Growing opposition to the centralized state from within the non-English territories of the UK has led to a resurgence of nationalist movements which have won increasingly large shares of votes and parliamentary seats in those territories. Even within England, the dominance of the two main parties has been undermined on the one hand by falling voter participation, and on the other by a fall in their vote share in favour of minor parties, particularly the centrist Liberal Democrats which have consolidated a substantial electoral base over the last three decades. This crisis of the centralized state model, and of the Westminster model more broadly, provides the context in which the decentralizing reforms of the late 1990s must be understood.

### **The 'Union State' and the Resurgence of Nationalisms**

Although territorial politics never entirely disappeared from British politics, the partition of Ireland in 1921 and the apparent resolution – at least for a time – of the 'Irish question' placed questions of territory and national identity in the background of the political debate. In this period, the major dimensions of political competition were socio-economic issues (the class cleavage) and, at times, foreign and security policy, which often overlapped with the class cleavage. It was in this period of relative quiet on the territorial front that the systematic study of the United Kingdom by political scientists developed, and analyses of the British political system tended to focus on the workings of Westminster and Whitehall, or the competition between the Labour and Conservative parties, neglecting the ethnic or geographical dimensions of politics. In the 1960s Oxford

University's Peter Pulzer confidently declared that 'class is the basis of British politics; all else is embellishment and detail' (Pulzer 1967: 98).

In the arena of electoral politics, there were strong grounds for such a claim. After the Second World War, British party politics settled into a period of almost perfect bipartism, with Labour and the Conservatives winning the vast majority of votes cast, and an even larger share of seats in the House of Commons. In the 1951 election, the highwater mark of the two party system, the two main parties took 95.8% of the vote, and 97.5% of parliamentary seats (see Table One). The Liberal Party's 2.5% of the vote (with six Members of Parliament) completed the picture of a party system almost entirely 'nationalized' (Caramani 2004) in that almost all voters were voting for parties present more or less throughout the territory of the state. The only exceptions to this were the 12 seats representing constituencies in Northern Ireland, nine of which were won by the pro-union party the Ulster Unionists, the remaining three by anti-union Republican candidates. The Ulster Unionists in this period belonged to the Conservative group in the House of Commons and offered reliable support to the Conservative leadership, effectively becoming part of a UK-wide political force themselves. The three Irish Republican MPs were therefore alone in representing territorial distinctiveness in Westminster, and in the four subsequent legislatures this Irish Republican presence was even thinner.

(Table One about here)

Neglect of territorial issues was reinforced by the dominant ideological mood of the immediate post-war period. The Labour party, committed to egalitarian policies often pursued through centralized state management of economic and social affairs, was instinctively unenthusiastic about the notion of differential treatment for different territories within the UK. The Attlee government of 1945-51 brought a number of strategic industries under state control, a policy of 'nationalization' in which the 'nation' in question was clearly the United Kingdom. This meant that the shipping industry in Scotland or the coal mines of Wales would be managed by London-based politicians and bureaucrats, in the interests of economic efficiency and social justice. Similarly, the consolidation and expansion of the welfare state in the post-war period was based on the principle of equal rights and entitlements for all British citizens, irrespective of their national identity, according to rules and budgets decided by Westminster and Whitehall. Finally, the trade unions – which wielded a great deal of influence in the Labour party itself as well as in the labour market – were organized at the UK level, and were hostile to differential treatment of workers in different territories, suspecting that this would mean lower rates of pay in economically peripheral areas such as Scotland and Wales. Labour's feeling on devolution was summed up by Aneurin Bevan in 1946: 'Is it not rather cruel to give the impression to the 50,000 unemployed men and women in Wales that their plight would be relieved and their distress removed by this constitutional change?'<sup>4</sup>. Labour's dominance in Wales, and their increasingly dominant position in Scotland too after the mid-1950s, made an important contribution to constitutional continuity. For their part, the Conservatives did not translate their opposition to centralized economic management into support for devolved government, largely because of the strength of the unionist tradition within the party. Conservatives had fraternal relations with the Unionists in Northern Ireland until 1970, and until 1965 the Scottish Conservatives called themselves the Unionist party. Support for devolution did not fit with this unitary British nationalist identity (Mitchell 1990). Only the Liberal Party, marginalized from national politics until the 1970s, had any commitment to decentralization.

Although party politics in this period suggested a relatively homogeneous and centralized political system, the reality of policy-making was more complex. Central government, although controlled by statewide parties who won most of their votes in England, had to recognize the reality of diverse institutions and practices in different parts of the state territory. The distinctiveness of Scotland, Wales and Northern Ireland may have mostly been absent from the 'high politics' of state affairs, but in the 'low politics' of local administration and grassroots policy implementation it was inescapable (see Judge 2005: 163-76). Certainly in Northern Ireland, which enjoyed 'Home Rule' under a devolved Parliament from 1921 to 1972, there was ample opportunity for differentiation in a range of policy areas: the Stormont Parliament could legislate in all areas excepting the Constitution, foreign and defence affairs, external trade and most of fiscal policy, and the Northern Ireland Government administered a wide range of policies. This allowed the Protestant-Unionist majority to impose discriminatory practices in the provision of public services, particularly in the allocation of social housing and recruitment of public sector workers. The domination of the state school sector by the Protestant majority also led to a compromise whereby the government would fund 'maintained' schools run by the Catholic church, leading to an almost completely segregated education system. After the return to direct rule in 1972, Westminster legislation would rarely apply automatically to Northern Ireland. The Northern Ireland Office of the central government – established to replace the devolved government – implemented law through secondary legislation (Orders in Council) which would recognize the peculiarities of the social and political context of the province. This allowed for distinctive policies, such as for instance the exemption of Northern Ireland from Westminster legislation legalizing abortion, so that abortion remains a criminal offence there. Although Scotland and Wales remained under direct rule from Westminster throughout the nineteenth and twentieth centuries, they too retained a distinctive status. This was reflected in the creation of government ministries – the Scottish and Welsh Offices – charged with adapting Westminster legislation for the two countries and setting budgetary priorities, including separate administration of social benefits in the early years of National Insurance, the incipient welfare state emerging before the First World War. In the Scottish case legislation had to be adapted to a distinct legal system which in some areas remained quite different from English law, and an education system with different subject requirements and assessment procedures. In Wales, the institutional tradition was not distinct from the English one but the dominance of the Welsh language in the North and West of the country led to differential educational and broadcasting arrangements.

This institutional diversity, characteristic of the 'union state' (Rokkan and Urwin 1982), for a long time appeared successful in integrating the Celtic periphery into a United Kingdom political system dominated by the English. The Scottish and Welsh Offices gave those nations an institutionalized voice at the heart of the central government, although the convention of 'collective responsibility' – the notion that divisions within the government should not be expressed publicly – made it difficult for Scottish and Welsh ministers to make claims that would be politically controversial. To this extent, the UK state recognized the need to govern the different territories differently, but did so through administrative accommodations, rather than democratically accountable institutions. But changing patterns of electoral behaviour in the 1960s and 1970s sent clear signals that such an approach was not sustainable, particularly for Northern Ireland. The Civil Rights movement – protesting at discrimination and disenfranchisement of Catholics by the Unionist administration in Stormont – and the revival of the paramilitary Irish Republican Army (IRA) in the late 1960s brought an end to devolution in Northern Ireland and marked the beginning of the 'Troubles' (see

McGarry and O'Leary 2005). This conflict was reflected in the party system, as the Ulster Unionists withdrew from the Conservative parliamentary group in Westminster and rival unionist groups (particularly the hardline Democratic Unionist Party [DUP]) emerged, alongside increasingly well organized Republican parties: the moderate Social Democrat and Labour Party [SDLP] and the radical Sinn Féin, close to the IRA (see Table 1). From the 1970s on, Northern Ireland's party system took on a life of its own, entirely separate from patterns of party competition in the rest of the UK.

Less dramatically, there was a resurgence of nationalism in Scotland and Wales. The Scottish National Party (SNP), although founded in 1934, only won parliamentary representation in 1970, whilst the Welsh nationalist party Plaid Cymru (PC) won its first seat at Westminster in 1974. The high point of this nationalist challenge was reached in the October 1974 election (see Table 1) where a miserable showing for the two principal statewide parties (polling only 75% of the UK vote between them) was matched by an exceptional increase in votes for non-statewide parties<sup>5</sup>, with the Northern Irish parties and Scottish and Welsh nationalists together accounting for 6.1% of the UK-wide vote, and 4.9% of the seats in the House of Commons. Although subsequent elections reduced these shares, 1970 was a clear turning point. Not only had the dominant party in Northern Ireland asserted its independence from the Conservatives, but the consolidation of the Scottish and Welsh nationalists as serious political forces in their territories amounted to a clear 'denationalization' of the UK's electoral politics (cf Caramani 2004). Before 1970, non-statewide parties had averaged 2.2% of the UK vote and 1.9% of seats in the House of Commons; from 1970 on their average vote share of such parties doubles to 4.4%, with an average 3.7% of parliamentary seats. Although parties present in only one constituent territory of the UK still represented only a small proportion of British voters, the growth of non UK-wide political forces sent a clear signal that the centralized model of the post-war period was coming under significant strain, which for the Labour party in particular posed a significant electoral threat.

### **Centrifugal Pressures and Parliamentary Confusion: The Failure of Labour's First Devolution Reform**

It is important to note that Labour's programme of constitutional change after 1997 was not the clean break with the centralist past that it may appear. In fact, Labour had first addressed the question of devolution to Scotland and Wales in its ill-fated period of office in the late 1970s. Similarly, the escalation of violence in Northern Ireland in the early 1970s, although initially provoking a centralizing move in the dissolution of the Stormont parliament, led a succession of governments to consider possible institutional reforms which could pacify the province. Even during the Thatcher years, an inhospitable time for decentralizing claims, the status of Northern Ireland remained under discussion, with the signing of the Anglo-Irish agreement in 1985, a first move towards a greater involvement of the Irish Republic in attempts to put an end to political violence in the six counties.

Notwithstanding these efforts, the overall picture is one of a quarter of a century in which centrifugal pressures continued to grow, and the UK political elite failed to take timely and appropriate measures to respond to them. In the case of Northern Ireland, this failure can be explained in terms of the intractable nature of the problem (see Wilford and Mitchell 1999). The resurgence of Irish Republicanism, including the paramilitary activities of the IRA, met an uncompromising response from the Unionist movement which had dominated the devolved institutions in the province ever since partition in 1921. The Unionist authorities permitted an aggressive use of the largely Protestant

security forces against Catholic protests, and the British governments' attempts to reform the devolved institutions by introducing mechanisms for power-sharing foundered in the face of inflexible posturing. The Unionist elites, initially favourable to maintaining devolution, agreed to a new Northern Ireland Assembly elected by proportional representation in the Sunningdale agreement of 1973. However in 1974 Unionist opinion turned against this agreement and a general strike of Protestant workers brought a swift end to power-sharing. As relations between the two communities broke down, the British government responded by bringing Northern Ireland under direct rule from Westminster, which assuaged Unionists fears but alienated the Catholic population of Northern Ireland. Tentative attempts to restore devolved institutions – the election of a Northern Ireland Convention in 1974, and of a Northern Ireland Assembly in 1982 – failed to produce any workable compromise between Unionists and Republicans. Instead direct rule, with high levels of political violence and inter-community tensions, not to mention a significant British Army presence in the province, was maintained for 25 years.

The situation in Scotland was far less dramatic, but there too the failure to respond adequately to nationalist demands led to increasing pressure on the unitary British state. The Scottish Nationalists electoral successes – the SNP won 30% of the Scottish vote in the October 1974 election, giving it 11 of the 71 Scottish seats in the House of Commons – made devolution a priority for the 1974-79 Labour government. Building on the findings of the Kilbrandon Commission – a committee of experts charged with examining the territorial question in constitutional terms – the Labour government set about passing legislation to create devolved institutions in both Scotland and Wales; an elected parliament with legislative powers in the first case, an elected assembly with solely executive powers in the second. The proposed reform bore many resemblances with the reforms ultimately instituted in the 1990s, with the exceptions that both devolved assemblies would be elected using the same majoritarian single-member electoral system used for the House of Commons, and would lack any fiscal powers. With support from the Liberals, Scottish Nationalists and Plaid Cymru, the parliamentary arithmetic was favourable to Labour passing its legislation through the Westminster parliament. However, the Labour government failed to deliver devolution, for two main reasons.

First, the party itself was divided, with significant numbers of Labour MPs, including many representing seats in the industrial areas of Scotland, hostile to devolution. The Scottish Labour party had little enthusiasm for devolution, and to a significant degree only embraced the policy as a result of pressure from the British Labour leadership, concerned that Scottish Labour should not be outmanoeuvred by the nationalists. Scottish Labour elites subscribed in their majority to the view that devolution was inconsistent with the pursuit of social justice through state management of the economy and welfare state, and the Scottish party executive formally rejected devolution even as late as June 1974. Similarly, many English Labour MPs objected to devolution as incompatible with egalitarianism, fearing that Scotland could vote itself higher standards of welfare protection than England. This internal opposition was strong enough to ensure devolution was absent from Labour's 1974 election manifestoes.

The second reason for the failure of the devolution reforms, was that the Labour government after 1974 did not command a working majority and was forced to seek parliamentary support from other parties, including the nationalists. Faced with a precarious parliamentary arithmetic and a divided parliamentary group, the Labour leadership had insufficient authority to impose its will and was subject to parliamentary harassment both from rival parties and from within the Labour parliamentary group. In particular, one amendment to the legislation passing through the House of Commons – made by a Labour MP – required the confirmatory referendum on devolution to achieve



not only a majority of favourable votes, but also the support of 40% of the electorate of each territory if the reforms were to go ahead. This amendment ultimately proved decisive in ensuring the rejection of the reforms. However, the most important reason for devolution failing in the 1970s was the failure of the Scottish and Welsh electorates to show sufficient enthusiasm for it in the referenda held in March 1979. In Wales, a huge majority (79.8%) voted against devolution, whilst in Scotland a small majority of voters supported the reform (51.6% to 48.5%), but this only constituted 32% of the electorate. With the failure of the referenda, devolution was sunk, and so too was the Labour government, overturned by a vote of no confidence shortly afterwards.

### **Centrifugal Pressures and Constitutional Crisis: Thatcherism and the Prelude to the Devolution**

The situation created by 18 years of a Conservative government fundamentally unsympathetic to nationalist claims brought devolution back onto the political agenda. First, Margaret Thatcher's open hostility to Scottish national feeling fed demand for devolution north of the border, bolstering support for the SNP and seriously undermining the position of Scottish Conservatives (Mitchell 1996). Second, the authoritarian political style cultivated by the 'Iron Lady' encouraged the Labour party to identify itself with the broad cause of constitutional reform, and in particular with demands for devolution of political decision-making. The logic of Labour's strategy was unassailable: it had strong political and electoral reasons for adopting promises of constitutional change.

In programmatic terms, devolution could be presented as a part of a broader package of constitutional reform, of strong appeal to the kind of middle-class intellectual left which remained skeptical of Tony Blair's centrist 'New Labour' project. Demands for constitutional change had grown throughout the 1980s. As well as closing the door on nationalist aspirations in the Celtic periphery, the Conservative governments of Margaret Thatcher were accused of adopting an authoritarian style of political decision-making. Despite fierce opposition, the Thatcher governments pushed through a harsh programme of industrial restructuring, severely restricted the rights of trade unions, and cut social entitlements in a period of high unemployment. Some controversial measures exploited the flexibility of Britain's unwritten constitution (Ridley 1988) and laid bare the limited constraints on the powers of a government with a solid majority in the House of Commons. Some of the most striking examples of this concerned local government. Many of Britain's largest urban areas were governed by 'metropolitan authorities' which had extensive powers to develop social, education and transport policy, and were generally under Labour control: the Greater London Council (GLC) run by Labour left-winger Ken Livingstone was the most high-profile example. The Conservative government first introduced much greater restrictions on the budgetary independence of these administrations, and eventually opted to simply abolish them, leaving London and other major cities with a fragmented administrative structure (London was governed by 32 separate boroughs after 1988). A further move – so deeply unpopular that it ultimately contributed to Thatcher's forced resignation in 1990 – was to reform local taxation in a regressive direction: the so-called 'poll tax', a head tax which replaced the previous regime based on property values. This measure was forced through despite strong opposition, and the lack of constitutional checks and balances became clear when the government was forced to call in a large number of inactive Conservative peers who never normally attended parliament in order to pass the legislation in the House of Lords.

The new tax, once legislated, was implemented first in Scotland, and only a year later in England and Wales, further fuelling resentment north of the border.

The experience of the Thatcher government therefore provided strong support of the desirability of constitutional reform, including electoral reform. Organizations such as Charter 88 campaigned for a written constitution with clear statements of the powers of the various state institutions and guarantees of individual citizen rights. Decentralization of power to local and regional institutions was a significant part of the reform package proposed. Proportional representation for parliamentary elections was also advocated by Charter 88 and in particular by another pressure group, the Electoral Reform Society. The case for proportional representation had been immeasurably strengthened by the perverse effects of the majoritarian, single-member district arrangements used to elect the House of Commons. After the division of the Labour party in 1982 and the creation of the Social Democratic Party (SDP), the balance of the two-party system was upset, with Labour winning only marginally more votes than the centrist SDP-Liberal Alliance in 1983. However, due to Labour's entrenched position in its industrial heartlands, the party managed to keep hold of one third of the House of Commons whilst the Alliance won only 3.5% of the parliamentary seats, with just over a quarter of the popular vote. This left the Conservatives controlling the Commons on just over 40% of the vote, after a deeply polarized election, highlighting the strongly majoritarian effects of the UK's constitutional arrangements. Although organizations such as Charter 88 had limited popular appeal, their influence over the intellectual classes and sectors of the Labour party elite gave them an important role in shaping the political agenda.

The increasingly stark distortions in the workings of the electoral system had a territorial, as well as a partisan, impact (Johnston et al 2001). Over the post-war period, the territorial distribution of the Conservative vote became progressively more unbalanced (see Figure One). The party's sharp decline in Scotland, added to their historic weakness in Wales, exacerbated the Conservatives' reliance on English votes. During the Thatcher/Major period of government, the Conservatives' lack of any substantial electoral support in these two countries bred resentment, particularly in Scotland. In 1987, Margaret Thatcher was able to win a large majority of parliamentary seats with just 24% of the vote in Scotland, and just under 30% in Wales. The Conservatives had so little representation in Wales that ministerial responsibility for Wales was frequently in the hands of English MPs, most controversially in 1993-95 when Secretary of State for Wales John Redwood, whose constituency was 150 km from the Welsh border, became famous for ineptly miming the words to the Welsh national anthem at a ceremonial event. In 1997, the Conservatives' disastrous electoral defeat left them without a single MP elected outside England, making its claim to be a statewide party representing the whole of the UK increasingly threadbare. Labour's electoral support was also skewed, with exceptionally high representation in Wales, and – in the 1980s and 1990s – Scotland, although Labour's levels of support at the UK level were rather similar to their vote share in England (see Figure Two).

(Figures One and Two about here)

Devolution was an obvious institutional response to this growing 'denationalization' of British party politics. But commitment to devolution was also a key part of Labour's vote-seeking strategy. Just as the Conservatives won most of their votes in Southern England, Labour had disproportionately strong support in Northern England, Scotland and Wales, where it won the vast majority of seats. Winning power required Labour to increase its vote share in the heavily populated South, but it could not afford to

neglect its peripheral heartlands, particularly Scotland and Wales, where nationalist parties could exploit Labour's focus on the South to increase their support and reduce Labour's share of parliamentary seats. By committing itself to devolution in these two countries, Labour provided itself with a protective shield against the nationalist threat, allowing it to focus on defeating the Conservatives in England. The choice for devolution also ensured internal party cohesion, since the Scottish Labour party was compact in its support for self-government, and even in Wales, where popular demand for devolution was weaker, the Labour machine accepted the proposed reforms, which it had supported only half-heartedly in the 1970s. The success of this strategy can be seen in Figure Two, which shows Labour increasing its support in England through the 1990s without in any way compromising its share of the Welsh and Scottish vote.

### **New Labour's Reforms: The Good Friday Agreement and Devolution to Northern Ireland**

Labour's return to government in 1997 with a commitment to devolution in Scotland and Wales coincided with a change of climate in Northern Ireland, which had been tormented by political violence throughout the 1970s and 1980s, with approximately 3,600 deaths caused by political conflict after 1968 (Tonge 2003: 181). Although the early 1980s saw an intensification of tensions, particularly with the tough attitude of the Thatcher government towards the claims of IRA prisoners to be treated as political prisoners, by the late 1980s the Republican paramilitary groups responsible for much of the violence began to contemplate a negotiated way out of the Troubles. Two decades of harassment of the British security forces and Unionist paramilitaries had failed to dislodge the British presence from the North of Ireland, and indeed in some ways appeared to have consolidated it. On the other side, the UK government was tiring of the high human and economic costs of maintaining a semblance of order in Northern Ireland, and had come to the conclusion that there was no prospect of a military defeat of violent Republicanism. The conditions had therefore arisen for negotiation between the UK state and the Republican movement, whilst the Unionists, although reluctant to discuss Northern Ireland's constitutional status, were also interested in an end to violence and, potentially, an enhancement of their political role in the governance of the province.

Although events behind the scenes are difficult to reconstruct reliably, the peace process became public in 1993 with the Downing Street Declaration, a joint statement of the UK and Irish Republic governments, in which British Prime Minister John Major stated that Britain had 'no selfish, strategic or economic interest' in Northern Ireland, a clear hint that if agreement with the Unionists could be reached, then Britain would relinquish its claim to the province. Some months later, the IRA responded to this statement with a ceasefire, matched shortly afterwards by the principal unionist paramilitary groups, and multi-party talks were able to begin. However Sinn Féin, the party representing hard-line Republicanism and close to the IRA (or indeed part of the same organization, as many argue) was excluded from these discussions, as a result of a Unionist veto. John Major's Conservative government had a bare majority in the House of Commons and were therefore easily pressured by Unionists whose parliamentary seats gave them significant 'blackmail potential'. Failure to make progress under the Conservatives was met with a violent response, with the IRA exploding a large bomb outside the offices of the BBC in 1996. But after Blair's Labour government was elected in May 1997 the IRA called a second ceasefire and negotiations were able to resume with

a more authoritative British government, strong of a large majority in the House of Commons and of a party traditionally more sympathetic to Republic claims.

This process brought an agreement on Good Friday 1998 (see O'Leary 1999), negotiated between the British and Irish governments, both of the main Republican parties (Sinn Fein and the more moderate SDLP) and the UUP, the main Unionist party. The Clinton administration in the United States, through its envoy George Mitchell, also played an important role in brokering the deal. The only prominent political force to reject the Good Friday Agreement was the DUP, the hardline Unionist party led by radical cleric Ian Paisley. The Agreement worked on several levels, involving commitments from the British and Irish governments, and from paramilitary groups, and institutional innovations regarding Northern Ireland and the British Isles as a whole. Its complex architecture represents an innovative response to the complexity of the national problem on the island of Ireland.

The Good Friday Agreement reiterates the 'principle of consent', first stated in the Northern Ireland Constitution Act of 1973. This principle established that Northern Ireland remains part of the UK and 'shall not cease to be so without the consent of the majority of the people of NI voting in a poll' specifically on that question. Although this was not a departure from the existing constitutional position, the novelty of the Agreement was the formal acceptance of this principle by the nationalist parties, and in particular the radical Republicans of Sinn Fein, committed to a united Ireland. Concomitantly, the government of the Irish Republic agreed to repeal Articles 2 and 3 of its constitution, which expressed the Republic's claim on the territories in the North. All of this had the purpose of reassuring the Unionist population that their interests would be safeguarded and the North would not be integrated into the Republic without their agreement. On this basis, the Unionists were able to agree to the creation of new devolved institutions in which they would have to share power with representatives of the Catholic population of Northern Ireland.

The key plank of this devolution of power to the province was the election of a 108-member Northern Ireland Assembly in Stormont Palace, Belfast, which would have responsibility for a range of policy areas, namely finance, personnel, agriculture, education, health, social services, economic development and the environment. These policies would be immediately devolved to the Assembly, whereas two highly sensitive areas - policing and justice - remained in the hands of the UK government as 'reserved powers', although there was an explicit aspiration to these issues too being devolved once sufficient trust between Unionists and nationalists had been achieved. The Assembly does not have tax-raising powers, and given Northern Ireland's relatively weak economic performance it has been highly dependent on government spending over the decades since the 'Troubles' began. Tax, along with defence, social security, financial markets, monetary policy and nationality issues remained as 'excepted powers' of the Westminster parliament. The Assembly would not be sovereign, so the Royal Assent would be required to pass its legislation into law.

The most interesting feature of the Assembly is its innovative design to ensure it functions as a consociational chamber. First, unlike the Westminster parliament, the Assembly is elected by a form of proportional representation - the 'single transferable vote' (STV), ensuring that the social divisions in Northern Ireland society are accurately reflected in the allocation of representatives in the Assembly. This overcomes one of the main weaknesses of Northern Ireland devolution before 1973, where the use of a majoritarian 'First Past the Post' electoral law allowed the Unionists to dominate the Stormont parliament, effectively excluding Catholics - 35-40% of the population of Northern Ireland at that time - from political decisions. Second, the Assembly would be

organized on the basis not only of political party groups, but also of 'communities'. Each Assembly Member (AM) is required, on election, to declare their community 'identity' – unionist, nationalist, or other. This identification is the basis for a power-sharing arrangement within the Assembly based on 'cross-community voting', in which for key decisions, the 'parallel consent' of representatives of both communities is required. 'Parallel consent' consists of a majority of the assembly including a majority of each of the two main communities; or 60% of members, including at least 40% of each community. Such cross-community majorities are also required for the election of the First Minister and Deputy First Minister, who head the Executive Committee of Ministers, the government of Northern Ireland. The appointment of ministers is also systematically consociational, with the First and Deputy First Ministers (who by nature of the 'parallel consent' procedure will inevitably represent both communities) decide on the number of ministries, and allocation of ministries to parties being decided using the d'Hondt formula. These institutional devices have the effect of preventing the in-built Protestant Unionist majority from excluding the Catholic Republican minority from key decisions, as was the norm during Northern Ireland's first experience of devolution.

This consociational chamber and executive constitute the institutional forum in which power-sharing within Northern Ireland is to be exercised. However, distributing power within the province is only part of the problem, since the two main communities have differing and incompatible national allegiances, neither of which is to Northern Ireland itself. The Good Friday Agreement therefore sought to provide reassurance to both Unionists and Nationalists that their national aspirations were recognized, a difficult balancing act indeed. The Agreement establishes the creation of two transnational bodies which recognize both the Irish dimension and the British dimension in the politics of Northern Ireland. The North-South Ministerial Council brings together representatives of Irish government and Northern Ireland Assembly to enable cooperation on issues of common interest relating to the island of Ireland, an institution designed to satisfy Republican aspirations for the Irish Republic to have a role in the politics of the North. Concomitantly, another body, the British-Irish Council, brings together representatives of British and Irish governments *and* of the Scottish Parliament and Welsh and Northern Ireland Assemblies to cooperate on issues of common interest relating to the British Isles as a whole. This body has the purpose of reassuring the Unionist community that the Good Friday Agreement would not mean the British government abandoning Northern Ireland to a process of gradual absorption into the Irish Republic.

Despite this clever institutional design, the Northern Ireland devolution settlement has struggled to survive. Elections were successfully held in 1998 and the results augured well for the future of the Assembly, with the most moderate Unionist and Nationalist parties – the UUP and the SDLP – gaining pluralities of the vote in their respective communities. David Trimble of the UUP and John Hume of the SDLP, both architects and supporters of the Good Friday Agreement, were elected as First Minister and Deputy respectively. An Executive was formed, using the proportional d'Hondt method as envisaged in the Agreement, which led to representatives of Sinn Féin taking ministerial responsibility (most controversially Martin McGuinness, a former IRA leader, became education secretary). The Executive held together during the long period of almost 18 months in which the British government gradually transferred powers to the devolved institutions, but very quickly problems arose once the Executive took over its full functions.

From the Good Friday Agreement to the time of writing, the devolved institutions have only functioned for a relatively small proportion of the time. The British government suspended devolved government in Northern Ireland four times: from February to May

2000, for 24 hours in August 2001 and again in September of that year, and finally from October 2002 until spring 2007. During these periods, Northern Ireland reverted to direct rule from Westminster. The reasons for the suspensions were related to tensions between Unionists and Nationalists over the issue of the IRA 'decommissioning' its military equipment and weapons, although the fourth suspension also involved an alleged spying operation by Sinn Fein representatives in the Assembly. These suspensions indicate the difficulties involved in getting power-sharing to function in practice, since the lack of trust between the two sides makes cooperation arduous. In early 2007, the Blair government attempted to make its way out of the impasse by calling new elections to the Assembly, hoping to then reinstall devolved government with newly legitimized representatives.

Despite the difficulties the devolved institutions have encountered, before the March 2007 elections the ceasefires of the paramilitary organizations on both sides of the sectarian divide had been maintained, with only relatively small-scale acts of violence persisting. For all the Assembly and Executive had not been able to function normally, the peace process undoubtedly achieved a period of relative peace and social order lasting a decade. From the point of view of Irish nationalists, the significant reduction of the British army's presence in Northern Ireland is a major gain of the peace process, and powersharing has also meant a nationalist role in decision-making denied them under direct rule. From the Unionist point of view, devolved institutions give much greater direct policy influence than was the case under direct rule, and the effective Republican ceasefire, which has held for the best part of a decade, is of obvious benefit. However, frustration at the slow pace of change has undermined devolution in Northern Ireland. Unionists have expressed anger at the perceived reluctance of the IRA to accede to demands to disarm, whilst Nationalists see Unionist insistence on very visible acts of 'decommissioning' of IRA arms as a provocation. These disagreements have contributed to an increased polarization of party politics in the province, and at the 2005 election the moderate UUP lost most of its representation in the Westminster parliament to the intransigent DUP, whilst Sinn Fein made gains at the expense of the moderate Nationalist SDLP. This new electoral map, reproduced in the 2007 elections to the NI Assembly, suggest a radicalization of the political context of Northern Ireland which does not augur well for the future of devolution. However, initial signs after the 2007 Assembly elections pointed to a historically unprecedented agreement between Sinn Fein and the Democratic Unionists to cooperate in the formation of a new executive. If a devolved administration is formed bringing together such antagonistic figures as DUP leader Ian Paisley (who once theatrically protested against the visit of the Pope to the European Parliament by waving a placard bearing the words 'Antichrist') and Sinn Fein leader Gerry Adams (regarded by many as a key figure in the IRA), then this would suggest an extraordinary transformation in Northern Ireland politics.

### **New Labour's Reforms: Devolution to Scotland and Wales**

In the context of resolving such a difficult issue as Northern Ireland, the creation of decentralized government institutions in Scotland and Wales appeared rather straightforward. Unlike Northern Ireland, where a majority of the population was at the very least sceptical, and in part openly hostile, to devolution, in Scotland and Wales there was broad support for institutions of self-government. Moreover, in the Scottish case, all the major parties with the exception of the Conservatives had been working together to plan devolution for some time through the Scottish Constitutional Convention, which

drafted a devolution reform which closely resembled the legislation actually put forward by the Labour government in 1997. The vast majority of the Scottish political class was therefore broadly in agreement on the path to follow, and the Labour party in Scotland, itself closely aligned with the national leadership in London, was an enthusiastic proponent. In Wales there was less enthusiasm for devolution, but the issue was far less controversial than it had been in the 1970s, and the opposition to devolution within the traditional and trade unionist Labour left had been dissipated through the hard years of opposition in the 1980s and 1990s. After devolution had played a major role in the Labour government's defeat in 1979, party dissidents were reluctant to threaten the stability of Tony Blair's new administration over this issue.

The Blair government chose to hold referenda on devolution in order to ensure the reforms were not derailed by a lack of a clear electoral mandate. A referendum was held in Scotland in September 1997, only four months after the Blair government was elected, on the assumption that Scotland was overwhelmingly supportive of devolution and would provide strong popular backing. This proved to be a correct calculation: 74 per cent of Scots voted in favour of the creation of Scottish Parliament, and 64% voted 'yes' to a subsidiary question, on whether the new Parliament should have tax-raising powers. Turnout, at just above 60%, compared relatively well with participation in legislative elections. Scottish devolution could go ahead with an unquestionable electoral mandate. The same could not be said of Wales. The Welsh referendum took place soon afterwards, in the hope that the Welsh electorate would be encouraged by the Scottish example to vote for devolution. In the event, only a bare majority of Welsh voters (50.3 per cent) voted in favour, and the project came within a handful of votes of failing at the first hurdle. Failure to win a favourable majority in the referendum would have made Welsh devolution impossible, but Labour managed to push through the reform despite this very limited electoral backing.

Devolution to Scotland and Wales had many similarities, although the Scottish case clearly involved a much greater degree of decentralization (Bradbury and McGarvey 2003). Partly this was down to Scotland's far greater institutional distinctiveness, and in particular its separate legal tradition, which had already required a significant proportion of policy decisions to be made by the Scottish Office even under direct rule. Scotland also exhibited much clearer popular demand for devolution, suggesting that a restrictive reform would undermine Scottish voters' attachment to the Union. The Scotland Act of 1998 established a Scottish Parliament in Edinburgh composed of 129 members (known as MSPs), which would elect a Scottish Executive under a First Minister responsible for a range of policy areas, including education, healthcare, housing, transport, culture, agriculture and environment, and local government. The Parliament, elected by proportional representation, has full legislative powers and can pass laws on any issue except those 'reserved' to Westminster, the most important of which are constitutional issues, foreign and defence policy, monetary and fiscal policy, and social security. Although the Scottish Executive, like the Scottish Office before it, relies on the Treasury in London to finance its activities, it does have the right to vary the rate of income tax – the main source of government finance in the UK – by 3 percentage points either up or down. This means that a Scottish administration could increase or reduce the budget allocated by central government, allowing for a small degree of macroeconomic policy influence. Notably, until 2007 none of the principal Scottish parties had advocated varying rates of income tax north of the border.

The Wales Act of 1998 established devolved government for Wales, but with more limited powers. The Welsh Assembly of 60 members (known as 'Assembly Members', or AMs), elected on similar principles to the Scottish Parliament, was granted

only secondary legislative powers – the power to draft so called ‘statutory instruments’-, meaning that it could only develop the detailed implementation of legislation emanating from the Westminster parliament, rather than making law of its own. These secondary powers related to similar areas to Scotland: mainly education, health, housing, economic development, environment, culture and local transport. Unlike Scotland, which had minor tax raising powers, Wales was entirely dependent on the central government in London for its budget. This situation reflected Wales’ administrative similarity to England and the more limited scope for policy creativity of the Assembly’s predecessor, the Welsh Office, but also the Welsh electorate’s lack of enthusiasm for devolution. It also made the Welsh administration far more dependent on Westminster, since the UK Parliament would be able to restrict Welsh room for manoeuvre, if it wished, by drafting more tightly worded primary legislation.

Devolution made an immediate political impact in these two territories, and less directly, on the nature of the British political system more broadly. The first step towards devolution was the election of representatives to sit in the new institutions, and the elections in Scotland and Wales in 1999 suggested a major change in the workings of British politics. First of all, the elections took place under a form of proportional representation, a departure from the majoritarian electoral rules which had governed elections to the Westminster parliament and local authorities throughout Britain’s democratic history. The system adopted for the devolved institutions in these two countries was the Additional Member System, used for the lower house of the Federal Republic of Germany. In AM, voters elect a number of representatives in single-member districts according to majoritarian rules, but also choose a party list for their electoral ‘region’<sup>6</sup>, in which further ‘top-up’ representatives would be elected using the d’Hondt method. As in Germany, the proportional list vote determines the ultimate shares of seats in the devolved assemblies, so that parties winning election through the single-member district route have their votes won in each winning district subtracted from their score on the list vote. The resulting allocation of seats has been relatively proportional, although parties winning a very large number of single-member districts tend to be overrepresented (because seats won in the constituency vote will be retained even if they exceed the party’s proportionate share for the whole Assembly), and the use of the d’Hondt method for allocating list seats also tends to favour larger parties. In practice this has led to Labour winning a disproportionately large share of seats in the new institutions (see Curtice 2003).

The use of proportional representation in Scotland and Wales has had important consequences. First of all, it has made it very difficult for Labour – the dominant party in both territories – to win sufficient support to govern alone. Although Labour had regularly taken the lion’s share of parliamentary seats in the two countries, its vote share had never amounted to more than 50% in Scotland, and rarely exceeded that figure in Wales. Even though the form of AMS adopted in the devolved institutions over-rewarded Labour, it was almost impossible for the party to achieve an absolute majority and govern alone. Labour emerged as the largest party in Scotland in both 1999 and 2003, but fell short of a majority by a considerable margin. In Wales, Labour came close to an absolute majority in 1999, and achieved it by the narrowest of margins in 2003. The resulting experiences of coalition government and inter-party parliamentary cooperation, coupled with initially frequent changes of executive leadership in the devolved assemblies, marked a stark departure from the patterns of government stability observed in Westminster over the post-war period. A second major implication of the adoption of PR was that if Labour could not easily win majorities in the devolved institutions, it was equally if not more unlikely that the Scottish or Welsh nationalist parties could do so.



This was an important safeguard against the devolution settlement being used to generate pressures to dismantle the Union, since it was the explicit policy of the SNP to hold a referendum on Scottish independence if it were to win sufficient seats in the Scottish Parliament to push through such a measure. The Labour government was therefore prepared to sacrifice some political power at the devolved level in order to prevent devolution from setting off centrifugal pressures.

### **From Centre to Periphery? Parties and Policies After Devolution**

A decade after Labour's devolution reforms were enacted, one can begin to draw some preliminary conclusions as to the new form of the United Kingdom state. The consequences of devolution have been both low-key and far-reaching at the same time. On the one hand, the Labour party's continued dominance in the Westminster parliament and the devolved assemblies in Scotland and Wales have minimized the potential for conflict between different tiers of government, and the London-based media's lack of interest in 'peripheral territories' has meant that most of the British population has remained relatively ignorant about, and indifferent to, devolution. On the other, the creation of new political institutions at the sub-state level has radically changed the constitutional arrangements of the United Kingdom, probably irreversibly. In Northern Ireland, the new devolved institutions at Stormont have remained suspended for much of the decade since the Good Friday Agreement, and it is therefore difficult to discuss the long-term constitutional and political impact of devolution. This section will therefore focus on developments in Scotland and Wales, and their relationship to the political system of the UK more widely, during the decade of devolution.

One of the most significant implications of devolution has been the emergence of multiparty government and 'consensus politics' as an established part of British political life (Jeffery 2006). In Scotland, Labour was far short of a majority in the first devolved elections in 1999, and therefore formed a coalition government with the Liberal Democrats. Cooperation between these two parties was a logical response to the parliamentary arithmetic. Labour had 43% of the parliamentary seats, and could achieve a majority only by cooperating with one of three parties: the Conservatives, who had opposed the devolution reform, the Scottish Nationalists, who wished to use it to create an independent Scotland, and the Liberal Democrats, who had long advocated devolution and had already cooperated with Labour in Westminster over constitutional issues. Labour/Liberal coalitions therefore governed Scotland through the first two terms of the new Parliament. These coalitions worked quite effectively, in large part because of the programmatic similarity between the two parties. Scottish Labour was prepared to contemplate distinctive Scottish policies demanded by the Liberal Democrats because these policies were mostly consistent with a centre-left programme: thus Scottish students were exempted from the university tuition fees imposed on England by the Blair government (the Scottish Parliament opted for a form of graduate tax), and Scottish pensioners were given the right to free personal care (in England this is only available to those with no assets). The Scottish Parliament also opted not to adopt controversial pro-market reforms to the running of the National Health Service passed by the Blair government at Westminster. However, the costs to Labour of the coalition became clearer in the second term of the devolved Parliament, when the Liberal Democrats obtained a major concession: the introduction of proportional representation in Scottish local government elections. This undermined Labour's secular power base in Scotland's local authorities, which majoritarian electoral rules had allowed the party to dominate.

Coalitional politics in Scotland did not however create too many difficulties for the Labour party in office at the UK level, partly because there was little awareness in England of the inconsistency between policies followed by Labour at the devolved level and at the UK level.

In Wales devolution initially appeared to provoke an electoral earthquake, with Plaid Cymru winning dramatically increased support in Labour's heartlands in the industrial South in the 1999 elections, depriving Labour of a majority in the new Assembly. The 1999-2003 Assembly was notable for Labour's difficulties in managing devolution, and for the emergence of a consensus amongst the main political forces that the powers devolved by the 1998 Act were insufficient. The Labour administration's precarious position in the Assembly – it won 28 out of the 60 seats – encouraged dissident Labour members to assert their independence. After only a few months Blair's choice as First Secretary in Wales – Alun Michael – was forced out of office and replaced by Rhodri Morgan, an opponent of the Prime Minister (Van Biezen and Hopkin 2006). Labour's leadership crisis was coupled with an unstable coalitional strategy, with attempts made to govern alone, before making deals with both the other main pro-devolution parties: first the Liberal Democrats, then the Nationalist Plaid Cymru. As in Scotland, Labour's need to cooperate with other parties has led to policy distinctiveness, with the Assembly refusing to implement the NHS reforms proposed for England by the Blair government, and adopting the Scottish policy of free personal care for the elderly. In particular, the deal with the Liberal Democrats also involved major institutional change, with an independent review of the Assembly's powers – the Richard Commission. The Commission reported in 2004, and advocated an extension of the Assembly's powers, including the ability to levy additional taxes and the power to pass primary legislation (Richard Commission 2004).

On one level, devolution has had relatively minor effects in terms of public policy. Notwithstanding high-profile policy choices such as the abolition of tuition fees, public policy in Britain has remained relatively uniform, in large part because the centre-left, in the form of the Labour party governing alone or as the dominant party in a coalition, has governed at both the UK and the devolved level. Public finance has remained in the hands of the UK Treasury, in the hands of a Scottish MP Gordon Brown, who wields significant influence over the Scottish Labour party. Not surprisingly, the Scottish Parliament deciding not to use its limited tax-raising powers in its first two terms. The most obvious potential source of conflict between Westminster and the new devolved institutions – the distribution of public resources – has been mitigated by devolution coinciding with a period of economic growth and substantial increases in government spending. These spending increases have been concentrated particularly in the education and health sectors, the two main policy areas devolved to Scotland and Wales. The new devolved institutions have therefore been able to preside over an expansion of services, allowing them to take political credit for decisions made elsewhere. This situation leaves the UK government in the potentially frustrating position of providing funds out of UK tax revenue to the two territories but having little control over how these funds are spent. The possible costs of this strategy have already become clear, with the comparative evidence available suggesting that the Scottish and Welsh health services have proved less efficient in reducing patient waiting times than those in England (McLean 2005: 355). However, since 85% of the British population lives in England, Westminster still retains control over the health and education policy for the vast majority of the national population.

Another reason devolution has not led to very visible institutional conflicts is that much of the tension emerging from the decentralizing reforms has been absorbed by the Labour party itself (Laffin and Shaw 2007)<sup>7</sup>. The selection of party candidates for the new

elective institutions and party leaders in the devolved executives was a tense process which destabilized the Labour party's internal life. Under Tony Blair's leadership, the Labour party became a very disciplined organization with a highly centralized decision-making process (see Russell 2005). This organizational model was consistent with the highly centralized nature of the British state before 1997. With devolution, however, the Labour party's peripheral elites would be able to claim their own electoral legitimacy and wield autonomous political power, threatening the party's cohesion at the UK level. The Labour leadership therefore intervened in the process of elite recruitment before the first devolved elections, seeking to block the selection of candidates that they felt threatened party cohesion, and attempted to avert the selection of party leaders which deviated from the Blairite line.

These attempts to bring the party's activities in the devolved institutions under national control met mixed success (Van Biezen and Hopkin 2006). For example, in 1999, Labour refused to select Dennis Canavan, a former Westminster MP, as a candidate to the Scottish Parliament, but he stood as an independent and won election anyway, defeating the official Labour candidate. This embarrassment was the exception, however. Labour's candidate selection process involved interviews by the party's General Committee to create a shortlist from which party members choose candidates by vote. These procedures were exploited to exclude large numbers of candidates, which had the effect of severely curtailing the choices available to party members in the selection ballot. In Scotland, out of a total of 534 party members who applied to be candidates, only 167 were able to enter the membership ballot (Shaw, 2001: 38-39).

Leadership issues were even more difficult for the Labour party to manage. In Scotland, Labour was led by Donald Dewar, a Blair loyalist, who oversaw the development of the devolution reform and became First Minister of the new Scottish Executive in 1999. However, his sudden death in 2000 led to a period of leadership instability, with his successor lasting little longer, before being forced out over a minor party funding misdemeanour. Labour's third First Minister, Jack McConnell, succeeded in surviving through the 2003-7 parliament, suggesting that a new balance of power had been finally achieved. In Wales, leadership issues played out even more dramatically. The initial choice as candidate for First Minister was Ron Davies, Secretary of State for Wales in the government formed by Tony Blair in 1997, and one of the main architects of the devolution reform of 1998. However Davies resigned the same year because of a scandal involving his personal life, opening up a period of instability similar to that experienced in Scottish Labour. A Welsh Westminster MP, Rhodri Morgan was a popular choice within the Welsh Labour party, but an unpopular one for the Labour leadership in London, which instead imposed Alun Michael, a Blairite. Michael was blamed by many in the Welsh Labour party for the failure to achieve an outright majority in the 1999 elections, and in 2000 he was the subject of a vote of no confidence in the Welsh Assembly, which forced his resignation. Morgan replaced him, and brought about a change of strategy, promising 'clear red water' between Welsh Labour and the UK government in London. This strategy was electorally successful, and under Morgan Labour performed better in the 2003 devolved elections (Laffin, Shaw and Taylor 2007).

By the time of the second term of the new devolved institutions, these internal party conflicts had settled. It may or may not have been a conscious strategy, but the Labour party's UK leadership had managed to intervene strongly at the beginning of the devolution process in order to ensure some degree of central oversight, to then withdraw once the new institutions began to function normally. After the initial instability, the Labour party became a more decentralized party in which Scottish and Welsh elites were permitted some freedom to develop policy in the devolved areas of responsibility. The

lack of media exposure in England for devolved politics helped the Labour leadership in London disengage and accept some degree of policy inconsistency as an integral component of devolution, since it did not have obvious electoral costs in England. However, this situation was aided considerably by the loose fiscal climate and the lack of significant ideological divergence between statewide and sub-statewide elites. It is easy to see how a change in government at the UK level could produce a very different scenario, leading to conflict between different tiers of government.

### **Conclusion: Asymmetric Federalism in the United Kingdom?**

The political system at the UK level emerging from the devolution settlement is complex, ambiguous and uncertain. Dealing with Scotland, Wales and Northern Ireland as specific questions requiring specific institutional solutions proved a successful strategy in the decade following the election of the Blair government. However devolution has also opened up a number of thorny constitutional questions which the Labour government has been reluctant to address, preferring instead to manage intergovernmental relations in an *ad hoc* manner through the party organization.

The most obvious question left unresolved by the devolution reform is the situation of England, which continues to be governed more or less exactly as it was before devolution. The main reason for this is the lack of interest or enthusiasm for devolved administration in England, documented by several years of opinion surveys. Despite these unpromising circumstances, Labour decided to press ahead with plans to extend decentralization to England for regions which expressed sufficient support for the idea in a referendum. The reasoning for this was two-fold. First, some form of regional tier of government for England would make for a more territorially balanced distribution of political authority. Second, England, like the UK as a whole, suffers from significant regional disparities in economic performance, and regional government could contribute to promoting economic regeneration in poorer regions (Tomaney 2001).

The first region to attempt to found a regional assembly was the North East, an area suffering from economic decline and geographical distance from the economic and political dynamism of London. A campaign for regional government in the North East dating back to 1992 suggested that there was some demand for decentralization, and the government encouraged the holding of a referendum there in the hope that a positive outcome would stimulate similar moves in other regions. However, the result of the referendum was an unmitigated disaster for supporters of decentralization – a spectacular 78% of voters (on a 47.8% turnout) voted against the creation of an assembly, a clear rejection of regional government from the region considered most likely to adopt it. The failure of the English regions project left the UK with a very lopsided territorial arrangement, with devolved government for just 15% of the population, whilst the most populous and economically dynamic country, England, continued to be governed by ‘direct rule’ from the UK state institutions based in London.

These arrangements do not appear problematic from the point of view of citizen satisfaction with the geographical closeness of decision-making, since those UK territories which have shown an interest in decentralization have been provided with decentralized political institutions. However, the newly asymmetric shape of the UK state does create constitutional ambiguities which are only just beginning to emerge. First of all, there are questions about how much representation the different territories of the UK should enjoy in the Westminster Parliament. During discussions of the ill-fated devolution proposals of the 1970s, the Labour MP Tam Dalyell famously raised the issue

of the 'West Lothian question': that under devolution, English MPs in Westminster would not be allowed to vote on issues concerning devolved policy areas in Scotland and Wales, but Scottish and Welsh MPs would be able to vote on policy for the very same areas affecting England<sup>8</sup>. This issue has been present in discussions of devolution ever since the 'Irish question' emerged in the late 19<sup>th</sup> century. When the devolved government of Northern Ireland was established in 1921, its Westminster representation was reduced in order to take account of its lack of legitimate interest in much of the business of the Westminster parliament, which was in large part concerned with the government of England, Scotland and Wales. When Stormont was abolished in 1974, Northern Ireland received extra Westminster representation. Conversely, Scotland and Wales, which lacked institutions of self-government, were compensated for their perceived institutional disadvantage with parliamentary seats in Westminster in excess of what their population would have entitled them according to the existing rules for drawing electoral boundaries (this over-representation was remedied in the new boundaries adopted for the 2005 election).

The 'West Lothian question' is more than a question of constitutional neatness. Given the territorial imbalances in electoral support for the different statewide British parties, the purported advantage to MPs representing areas with devolved government has the potential to affect legislation in Westminster. In recent times the Parliamentary Labour Party has been disproportionately composed of non-English MPs, and in the 2005 election 80 of Labour's 356 parliamentary seats were won in Scotland and Wales. Indeed, in 2005 the Conservatives narrowly beat Labour in terms of the English vote share, and it was only due to the distortions of the electoral system that Labour was able to win a majority of English seats. Labour's greater support in Scotland and Wales than in England makes possible a scenario in which a Labour government in Westminster could lack a majority amongst English MPs, meaning that it could push through English legislation on devolved policy areas with the help of the votes of Scottish and Welsh MPs whose constituents would not be affected by that legislation (Judge 1999). Indeed, on one controversial policy measure adopted by the Blair government - the introduction of higher tuition fees for universities in England - a rebellion of Labour MPs reduced the government's majority to such an extent that it would have been defeated had only English MPs taken part (McLean 2005: 354). This led to the Conservatives - albeit half-heartedly - proposing a constitutional reform to bar MPs from the devolved territories from voting on devolved issues in the Westminster Parliament.

However, this proposal poses significant problems of its own. First of all, excluding members from some votes would seem to undermine the constitutional principle of parliamentary sovereignty, whereby the Westminster parliament in its entirety is the legitimate source of political authority for the United Kingdom state. Secondly, defining 'English' and 'non-English' laws in practice appears difficult, since many laws would be likely to affect the whole of the UK state at least indirectly, and therefore 'excluded' MPs could protest that they were being denied the right to represent their constituents. The extent to which devolution involves a sharing of power, rather than a simple transfer of authority from one level to another, implies that a neat demarcation of 'devolved' and 'Westminster' issues would be difficult to sustain. For example, although the Welsh Assembly has powers in a broad range of areas including health, education and agriculture, it has no primary legislative power in these areas, and has to work within the framework of the laws produced by Westminster. In these circumstances it is difficult to justify Welsh MPs being denied the right to vote on this legislation in the House of Commons. Similarly, although the Scottish Parliament does now have primary legislative powers over a range of policy areas, its fiscal autonomy remains negligible. Budgetary

and fiscal issues, which are at the heart of the Westminster Parliament's activities, could not conceivably be confined to English MPs alone when the powers of the devolved administrations depend on Westminster's decisions in these areas. In practice therefore, the constitutional untidiness of the West Lothian question cannot be easily resolved without risking a genuine constitutional crisis.

The discussion of the West Lothian question alerts us to a rather less abstract and immediate consequence of the devolution reforms: the interconnectedness of decisions made by political institutions at different levels in a system of multi-level government. Already a number of examples of unexpected or undesired consequences of this interconnectedness can be observed. For example, the legislation on university tuition fees mentioned above ostensibly applied only to England (the devolved Scottish and Welsh institutions refused to adopt the increased fees), yet it had ramifications for the rest of the UK, since the lower fees charged by Scottish and Welsh universities would be likely to attract larger numbers of English students seeking a cheaper university degree. In 2000, the Scottish Parliament voted to abolish the existing tuition fees for Scottish domiciled students, transforming them into a form of graduate tax; the increased tuition fees in the 2005 Westminster legislation were not adopted in Scotland. The Welsh Assembly decided to apply the new English tuition fees regime to non-Welsh students only, a policy decision which again would affect flows of students to universities in other parts of the UK. This means that English students can study more cheaply in Scotland, but not in Wales. As Iain McLean points out (2005), the confusion surrounding university financing after devolution was enhanced by the changes to funding for scientific research, which unlike tuition, remains largely the responsibility of the central government. Thus, the financing of universities in the United Kingdom is the responsibility of different devolved and central institutions, whose decisions interact strongly, but which are not bound to coordinate their policy agendas in any coherent way.

These examples of the complexities of policy-making under devolution are probably little more than a foretaste of the problems which are likely to arise when there is a change of government at either the devolved or the UK level. The devolution reforms discussed in this chapter were designed and implemented by Tony Blair's Labour government, and Labour's continued electoral success in UK-wide elections has allowed the new institutions to consolidate in the context of a sympathetic central government. Moreover, Labour has either governed alone or been the dominant party in the governing coalition throughout the first two terms of the devolved institutions in Scotland and Wales. This means that policy conflicts and inconsistencies can be ironed out through internal party channels, and there are strong incentives for the Labour party elites at the various levels to contain inter-jurisdictional conflicts. However it is very likely that at some point there will be a change in the majority of the House of Commons, and it is also possible that Labour could lose control of one or more of the devolved administrations. Possible scenarios include a Conservative majority in the Westminster Parliament facing Labour-dominated devolved assemblies, a Labour majority in Westminster and a nationalist presence in the devolved institutions, or – the most problematic scenario – a Conservative majority in the Westminster Parliament facing nationalist dominated coalitions at the devolved level (most probably in Scotland). In any of these possible situations, the relationship between the devolved powers and the government of the United Kingdom would be likely to prove far more tense than was the case in the first decade of devolution.

The possibility of antagonistic political parties governing at different levels reveals the risks involved in the rather typical British approach of flexible incrementalism adopted in the initial phase of devolution. The lack of any clear constitutional framework

for the politics of the United Kingdom allows governments to adopt a pragmatic attitude, 'muddling through' in the face of decentralizing pressures. This constitutional flexibility also implies a lack of clarity and consistency of the terms of the devolution settlement, which can be exploited by political actors – both centralizers and decentralizers - seeking to redefine the settlement. For example, the legislation establishing devolved institutions insists that sovereignty ultimately remains with the Crown and the Westminster Parliament, which is reflected in the Royal Assent – the signature of the Queen – being required before Scottish legislation can be enacted. However, as Vernon Bogdanor has pointed out (1999, 2003), this is a mere formalism, as it would be politically extraordinarily difficult for the central institutions of the British state to reverse any legislation emanating from the Scottish Parliament. Certainly, devolution has fundamentally undermined the concept of parliamentary sovereignty, since the Westminster parliament could not legitimately dismantle the devolved institutions if that was not the expressed wish of the Scottish, Welsh or Northern Irish populations themselves.

In Bogdanor's view, devolution does in fact imply a shift in sovereignty to the new devolved chambers, but there is no reliable institutional mechanism to ensure the different sovereignties in the British political system do not enter into conflict. But the UK constitution, such that it exists, remains that of a unitary state, lacking the kind of formal federal institutions that hold together other decentralized states. So far, arrangements to resolve disputes over the competences and powers of the devolved institutions and the oversight of central government have relied on a Joint Ministerial Committee established by the Blair government in 1998, which includes ministers from the central government and the devolved executives. However, the procedures of the Joint Ministerial Committee are not legally binding, and rely on the goodwill present between Labour ministers in London and members of the devolved executives who are usually Labour party politicians, or representatives of Labour's coalition partners. A robust arrangement for bringing together more representatives of more antagonistic political parties is lacking. Similarly, constitutional clarifications about the reach of the devolved institutions are the responsibility of the Judicial Committee of the Privy Council, a body lacking any democratic legitimacy, and lacking the constitutional weight of a formally constituted supreme court (Bogdanor 1999: 293-5). The solution most commonly used to achieve coordination in federal states – an elected second chamber with the specific role of representing different territories – is difficult to apply in the British case, largely because the vast majority of the British population lives in just one territory, and has no interest in further decentralization within that territory (Bogdanor 2003: 235-7).

More prosaically, a further ambiguity concerning devolution in the UK is its financial sustainability. Unlike in other European countries, where assertive regionalisms and nationalisms have often emerged in the most economic dynamic territories (Bavaria, Catalonia and the Basque Country, Lombardy), pressure for decentralization in the UK has come from the economic periphery. The UK government, through the operation of the public sector and welfare state, transfers large sums from the economic powerhouse of London and the South-East to Wales, Scotland, Northern Ireland and the more peripheral regions of England. This has important consequences for the UK's future as a decentralized state. On the one hand, it means that demands for further fiscal autonomy in the devolved territories remain rather muted, as they are all net beneficiaries of the redistributive spending of the state (particularly Scotland). On the other, it creates new sources of tension in the relationship between government at the different levels, and potentially, between the territories of the UK. The powers devolved by the Westminster Parliament include some of the biggest items of public expenditure, such as the health and

education services, transport and the environment. However the new devolved institutions have relatively little control over the sums available to spend in these areas, which are allocated by the UK government in London according to the so-called 'Barnett formula', which is calculated on the basis of the general levels of expenditure in the UK as a whole. In the first decade of devolution, the Labour government in London presided over a rapid expansion in public spending, particularly targeted at devolved areas such as education and health. This provided the new devolved institutions with the opportunity to develop differentiated policies in a context of a growing pie, allowing them to increase spending in some areas without having to reduce spending in others. The largesse made available by the UK Treasury financed distinctive policies such as the limiting of university tuition fees, extensions of free medication, and free personal care for the elderly in the devolved territories. However it is likely that a future administration at the UK level will at some stage wish to rein in spending, reducing the resources available to the devolved authorities. This would make budgetary conflict inevitable, laying bare the lack of settled institutional arrangements for combining decentralized policy-making with a centralized system of public finance. More broadly, a period of financial constraint at the centre would make clearer to voters both in the devolved territories and in England that devolution is not costless. Popular spending policies adopted by the new institutions have to be financed, and their financing has distributive consequences, which have been largely masked in the first decade of devolution by a benign economic and budgetary climate, and the ability of Labour-led administrations at both levels to keep the financial issue under the surface.

## Notes

<sup>1</sup> Here I use 'Britain' and 'United Kingdom' interchangeably, there are subtle differences between the two names, since geographically Northern Ireland is part of the latter but not the former.

<sup>2</sup> In 1536 Wales was formally incorporated into England by an Act of the Westminster parliament, although there had been a *de facto* union between them since the English conquest of Wales in 1254.

<sup>3</sup> As in the case of Wales, Ireland had long been subjected to British domination, and the Act of Union represented to a large extent a confirmation of this existing state of affairs.

<sup>4</sup> House of Commons debate, 28 October 1946; cited in Bogdanor (1999: 152).

<sup>5</sup> Non-statewide parties are those that are not present throughout the whole territory of the state. In a strict sense, all UK parties are 'non-statewide', as the Conservative, Liberal Democrats and Labour parties do not generally compete for election in Northern Ireland. However, here I regard these three parties as 'statewide', and parties competing only in one UK territory as 'non-statewide'.

<sup>6</sup> Scotland is thus divided into eight electoral regions, and Wales four.

<sup>7</sup> For an analysis of how the major British parties adapted to devolution, see Hopkin and Bradbury (2006).

<sup>8</sup> Dalyell contrasted the diverse powers of Members of the House of Commons representing West Lothian (a Scottish constituency) and West Bromwich (an English one).

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**Table 1**  
**Vote and Seat Shares of Main Statewide and Non-Statewide Parties, Parliamentary Elections, 1950-2005**

	1950		1951		1955		1959		1964		1966		1970		1974a	
	%V	%S	%V	%S	%V	%S	%V	%S	%V	%S	%V	%S	%V	%S	%V	%S
CONS	42.2	46.1	47.0	49.9	48.0	53.2	47.8	56.1	41.8	46.3	40.5	38.4	44.9	51.1	37.9	46.8
LAB	46.1	50.4	48.8	47.2	46.2	44.0	43.7	41.0	43.8	50.3	47.9	57.6	43.0	45.8	37.2	47.4
LIB	9.1	1.4	2.6	1.0	2.7	1.0	5.9	1.0	11.2	1.4	.6	1.9	7.5	1.0	19.3	2.2
UU*	1.2	1.6	1.0	1.4	1.7	1.6	1.6	1.8	1.5	1.9	1.4	1.8	1.5	1.3	1.0	1.4
DU**													0.1	0.2	0.1	0.2
OTHU‡															0.2	0.5
SDLP															0.5	0.2
SF***	0.5	0.3	0.4	0.5	0.7	0.3	0.2	0.1	0.4	0.0	0.3	0.2	0.6	0.5	0.1	0.0
SNP	0.1	0.0	0.1	0.0	0.1	0.0	0.1	0.0	0.2	0.0	0.5	0.0	1.1	0.2	2.0	1.1
PC	0.1	0.0	0.1	0.0	0.2	0.0	0.3	0.0	0.2	0.0	0.2	0.0	0.6	0.0	0.6	0.3
TOTSW	98.1	98.1	98.4	98.1	97.3	98.1	97.8	98.1	97.7	98.1	97.6	98.0	96.1	97.8	96.5	96.3
TOTNSW	1.90	1.90	1.60	1.90	2.70	1.90	2.20	1.90	2.30	1.90	2.40	2.00	3.90	2.20	3.50	3.70
	1974b		1979		1983		1987		1992		1997		2001		2005	
	%V	%S	%V	%S	%V	%S	%V	%S	%V	%S	%V	%S	%V	%S	%V	%S
CONS	35.8	43.7	43.9	53.4	42.4	61.1	42.2	57.9	41.9	51.6	30.7	25.0	31.7	25.2	32.4	30.7
LAB	39.3	50.2	36.9	42.4	27.6	32.2	30.8	35.2	34.4	41.6	43.2	63.6	40.8	62.5	35.2	55.0
LIB†	18.3	2.1	13.8	1.7	25.6	3.5	22.4	3.4	17.9	3.1	16.8	7.0	18.3	7.9	22.0	9.6
UU*	1.4	1.6	0.8	0.8	0.9	1.7	0.9	1.4	0.8	1.4	0.8	1.5	0.8	0.9	0.5	0.2
DU	0.2	0.2	0.2	0.5	0.5	0.5	0.3	0.5	0.3	0.5	0.3	0.3	0.7	0.8	0.9	1.4
OTHU‡	0.3	0.5	0.1	0.2	0.1	0.2	0.1	0.2	0.1	0.2	0.1	0.2	0.1	0.0	0.0	0.0
SDLP	0.5	0.2	0.4	0.2	0.5	0.2	0.5	0.5	0.6	0.6	0.6	0.5	0.6	0.5	0.5	0.5
SF***	0.2	0.2	0.1	0.2	0.3	0.2	0.3	0.2	0.2	0.2	0.4	0.3	0.7	0.6	0.6	0.8
SNP	2.9	1.7	1.6	0.3	1.1	0.3	1.3	0.5	1.9	0.5	2.0	0.9	1.8	0.8	1.5	0.9
PC	0.6	0.5	0.4	0.3	0.4	0.3	0.4	0.5	0.5	0.6	0.5	0.6	0.7	0.6	0.6	0.5
TOTSW	93.9	95.1	96.4	97.5	96.2	96.6	96.2	96.2	95.6	96.0	95.3	95.7	94.6	95.8	95.4	95.7
TOTNSW	6.10	4.90	3.60	2.50	3.80	3.40	3.80	3.80	4.40	4.00	4.70	4.30	5.40	4.20	4.60	4.30

TOTSW: Total Statewide Parties TOTNSW: Total Non-Statewide Parties

\* Before 1964, in Conservative parliamentary group. In 1974, Un UU Council. In 1983 Official Unionist.

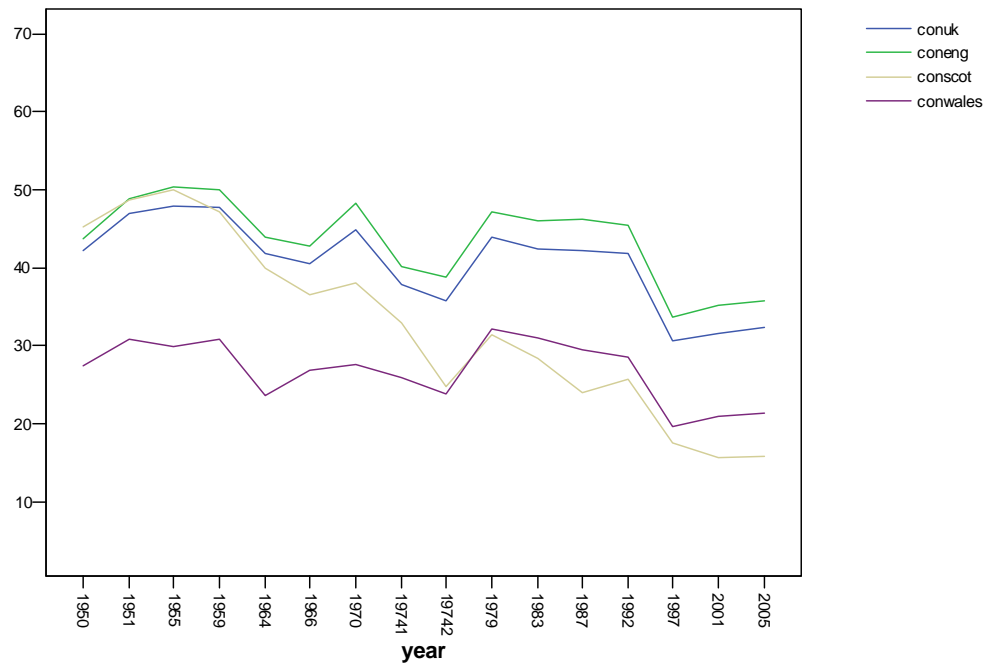
\*\* In 1970, Protestant Unionist. \*\*\*Before 1983, various Irish republican candidates.

†1983, 1987 SDP/Liberal Alliance. From 1992 on, Liberal Democrats.

‡1970 and 1974 Vanguard Unionist Progressive Party, 1979, United Ulster Unionist, 1983-1992 Ulster Popular Unionist, 1997 UK Unionist

**Figure 1**

**Conservative Vote Share (%) in UK Territories 1950-2005**



**Figure 2**

**Labour Vote Share (%) in UK Territories 1950-2005**

