



DEVOLUTION AND DECENTRALISATION: LESSONS FROM THE UNITED KINGDOM AND WALES

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What does the British experience teach us?

Why do regions want devolution?

Regions want devolution because they believe that they can manage their own affairs better than a distant national Government. In the case of Wales in 1998, there was a perception that policies made in London did not suit Welsh interests, and that better accountability and oversight were needed.

The essential feature of devolution is that it brings Government closer to people. In doing so, it improves oversight. There is easier access by citizens, communities and civil society organisations (CSOs) to Ministers, and Ministers can tailor policies to suit the needs of their territory rather than the nation as a whole.

For example, the agricultural needs of Wales are different from those of the UK as a whole. Since devolution, farmers in Wales now believe they have better access to politicians and civil servants, and that their needs are better understood and met by the Welsh Government than they were by the UK Government when London had responsibility for agriculture in Wales.

But devolution increases responsibility at local level, as well as power. Politicians must be prepared to step up to their new responsibilities, and must be capable of doing so. There is little value in devolution if services are run less well and less responsively to citizens' needs than they were before. We return to the capacity and capability issues later.

Gaining public support

It is often thought that political elites want devolution because it brings them power. Decentralisation is much more firmly based if it comes from citizens' demands. Political leaders, of course, have the job of shaping opinions, but popular support for devolution will be stronger if people feel that their needs are being met and that their voice has been heard.

A lesson from the experience of Wales is that, as devolution is planned and developed, the time spent on consultation, engagement and public education is time well spent. Decentralisation should be a response to demand. It must not be seen as a way to privilege a regional set of political leaders.

Public opinion polls have frequently been used to gauge public opinion, but referendums are ways in which the public can really exercise control over their political future. They are particularly important when constitutional issues, like devolution, are being considered. There have been three referendums on devolution in Wales, and another is planned. The referendums have been clear proof that the people of Wales support devolution.

Planning for devolution

In an ideal world, a lot of thought and planning will precede any devolution proposal. There are great advantages to considering proposals carefully in advance, and involving not just politicians, but academics, think tanks and CSOs in the process. This is what happened in Scotland before its own devolution proposals were announced in 1998, and the system introduced in Scotland then was robust enough to survive until very recently without major change.

The same did not happen in Wales, and there have been three separate false starts to the devolution process since 1998, as well as three committees of inquiry into how the system ought to work. There are obvious disadvantages in terms of wasted energy and failed expectations. But there can be advantages too. A gradual approach, involving experiments and pilot programmes, allows ideas to be tested. It is a mark of political maturity to recognise when something has failed and to try something different.

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**Devolution
should improve
the quality of
governance, and
its value comes
from this**

Devolution should be based on popular demand

For such important changes, careful preparation is never wasted, but there is no shame in abandoning something that turns out not to work

Devolution should be based on a vision and on principles

Planning and thinking should result in better devolution proposals, but even these may need to change as circumstances change. Less well-thought out proposals almost certainly will need to be changed. Adaptability, flexibility and the willingness to admit that something has not worked are all desirable.

Basing devolution on vision and principles

A rational distribution of powers between national and regional Governments is of the highest importance in any devolution settlement. The balancing of the regional and national interest is not easy, especially if the aim is – as it ought to be – to enhance the quality of governance at both levels.

Thinking through some basic principles on which devolution should be based can be of enormous value in this process. This may start with a Vision Statement. As an example, here is a Statement formulated for Wales:

We believe that the people of Wales will be best served by:

- *a clear, well founded devolution settlement that allows coherent political decisions to be made in a democratic and accountable manner, and*
- *political institutions that operate effectively and efficiently and work together in the interests of the people they serve.*

Devolution of power to Wales should benefit the whole of Wales and the United Kingdom.

Underlying a Vision Statement should be a set of principles against which devolution proposals can be judged. In the case of each principle, the question to ask is whether any particular proposal for devolution will increase or decrease the extent to which the principle is met.

Examples of principles might be:

- **Accountability** – are citizens better able to hold institutions to account for delivering policies in a transparent way?
- **Clarity and Simplicity** – do citizens better understand where decisions are made? Does devolution make lives simpler or more complex?
- **Coherence** – is the framework of powers, devolved and non-devolved, coherent?
- **Collaboration** – are national and regional Governments supported to work constructively together?
- **Efficiency** – are the arrangements affordable and represent value-for-money? Do they involve undue burdens on individuals or business?
- **Empowerment, Subsidiarity and Localism** – are decisions made as close as possible to the person they affect?
- **Equity** – are fundamental standards and rights enhanced?
- **Stability** – is the settlement well founded, sustainable and predictable in its operation, and will it meet the needs of current and future generations?

How to determine what is to be devolved and what is not

Most federal countries use one of two systems to divide functions between the national and regional levels. The first is the “reserved powers” system where all powers pass to the regional level except the powers reserved to the national level. The other is the “conferred powers” system where the regional level has only the powers conferred upon it.

In the UK, Scotland and Northern Ireland have always had all powers except those reserved to London, but Wales was given specific conferred powers in 1998. This is soon going to change. The reserved powers model will be introduced in Wales as well. It is preferred because it is clearer, simpler, more certain and more stable. This is in the interests of politicians at both national and regional levels, as well as CSOs and citizens. It is also likely to result in less litigation – court cases have arisen in the past because of a lack of clarity.

This is particularly true in the UK where legislation tends to be detailed rather than setting out broad principles. But even in different legislative traditions, it is important to have a devolution settlement that sets out as clearly as possible what the responsibilities are of the regional Government, and what the responsibilities are of the national Government.

A real example from Wales will show what can go wrong. The UK Government decided to abolish the regulation of the wages of agricultural workers. The Welsh Government wanted regulation to continue in Wales. Agriculture is devolved, but employment law is not devolved. Is the regulation of agricultural wages a matter of employment law or agricultural law? The dispute went all the way to the Supreme Court. They decided that it was a matter of agricultural law.

Dispute avoidance

There are likely always to be tensions between the national and regional levels of Government, but measures to minimise the opportunity for unproductive disagreement will be in the interests of the citizen.

Most importantly, there should be clear intergovernmental mechanisms where disputes can be resolved. These may start very informally with discussions between officials in the two Governments, but with an agreed escalation process – perhaps first to joint committees of officials, then to joint meetings of Ministers and finally – and wholly exceptionally – to meetings between the two Heads of Government.

These mechanisms need to be at two levels – bilateral discussions between the national Government and the Government of the devolved territory, and multilateral discussions, involving the Governments of all the devolved territories in the nation and the national Government. This is because some issues will affect, in the case of the UK, only Wales, while others will affect all four British countries.

Cooperation and discussion is not only necessary at a Governmental level: inter-parliamentary cooperation is also highly desirable. For example, the committees of the national Parliament should hold regular meetings with sister Committees from the regional Parliaments, and there should be easy access to their respective buildings for parliamentarians at regional and national levels. There should also be rules that prevent MPs at either level from getting involved with matters outside their proper area of influence. For example, MPs in the Parliament in London cannot ask Parliamentary Questions about matters that should properly be raised in the National Assembly for Wales.

Institutional arrangements will not, however, prevent the inevitable personal tensions between political leaders at the national and regional levels. In the UK, those tensions have been particularly obvious in relations between politicians from the region who have a national role (MPs elected to the London Parliament representing constituencies in Wales) and those from the region who remain in the region (Members of the National Assembly elected from the same constituencies). Both want to claim to be the true representatives of regional interests.

Below the regional level, municipalities and local authorities also understandably believe that they, too, represent local interests. A lesson from Wales is that good dialogue needs to be maintained between them and the regional Government.

Sometimes disputes between the region and the nation need to be resolved in a formal, judicial context – in a Supreme Court or Constitutional Court. This has happened rarely in the UK, but is very common in Germany. In setting up judicial mechanisms for dispute resolution, it is important to avoid dragging the judiciary into political matters and also to ensure that the judicial process is only invoked as a last resort.

Make the division of powers between the national and regional Governments as clear as it possibly can be

Disputes can easily arise between authorities at local, regional and national levels. Thought must be given to dispute avoidance and dispute resolution mechanisms

Financial relations between central and regional Governments are particularly difficult to negotiate, but they are at the heart of effective devolution

Financial relations

One of the areas where disputes can most often arise is finance. The UK experience has shown that there are a number of different issues that cause controversy.

First of all, a system of financial transfers is common in any federation. The idea is one of a “social union” or what is sometimes called “solidarity”. Under this system, rich areas of the federation or union subsidise poorer areas so that citizens throughout the nation can have a broadly similar level of public services. This can be resented by richer areas, who feel that their resources are being spent elsewhere, and also by poorer areas who often believe that their needs are not being adequately met. Both sides complain about unfairness.

A second issue is the extent to which the national Government retains control of the resources passed to the region. The UK is unusual in giving Wales (and Scotland and Northern Ireland) a block grant, calculated in relation to spending levels in England, but able to be spent as the devolved Governments decide – and not necessarily on the services the national Government would prefer. In the USA, for example, there is much tighter control.

A third area of disagreement is how taxation responsibilities should be divided up between the centre and the regions. A devolved region needs to have some responsibility to raise its own revenue. Even a poor region like Wales ought not to be dependent only on hand-outs from the national Government, effectively becoming just a spending agency. On the other hand, a much richer area than Wales could fund all its own spending from taxation raised in its area – but the national Government may then expect to have a share in the revenues raised.

Dividing up taxation responsibilities causes other complexities. First, it is important to prevent “tax competition” between the national and regional levels. For example, it is not in the interests of the nation as a whole if corporate taxes are lower in the region than they are nationally. Secondly, different taxes are more or less suitable for devolution – for example, taxes on inheritance are difficult to devolve without causing tax avoidance, while others, like taxes on property, make a lot of sense if they are levied at the local level.

Typically, regional Governments will want to control taxes that help them develop regional economies but will try to avoid responsibility for taxes that will make them unpopular.

A final issue is borrowing. Control of borrowing is central to any nation’s fiscal credibility. Regional Governments need to borrow, but their borrowing needs to be accommodated within the nation’s fiscal framework. This can lead to understandable tensions if national Governments try to prevent borrowing by regional Governments.

Problems of size

Effective devolution needs strong and visionary political leadership. Because regions are, by definition, smaller units than nations, there is always a danger that a regional Government, and a regional legislature, will only be able to draw on a limited pool of talent and will not have politicians of the stature to deal with all the issues that they will face. Attracting men and women of talent to regional political roles becomes easier if there is a strong sense of regional identity and a belief that regional Governments can really bring about beneficial change.

There is also a problem in terms of the civil servants who support regional Governments. Do they have the capacity to think up new policy solutions? Are they motivated to do so? The experience in Wales has been that some civil servants have risen to the challenge, but others have been neither willing nor able to do so. It is so much easier to rely on central Government to do the hard thinking.

British experience also suggests that the smaller the unit of government, the greater the possibility of corruption. This can be “soft” corruption, where people do favours for others they know, as well as “hard” corruption such as bribe-taking.

Regional Governments may be more agile and responsive, but they also need to cope with less capacity than national Governments

There is one other capacity issue. Implementation of reform uses enormous resources, and so the process of devolution itself ties up the time and thinking capacity of the best politicians and best officials. There can appear to be a concentration on process rather than delivery, and this can lead to public cynicism.

Public expectations

When the National Assembly for Wales first came into being in 1998, there was enormous expectation that something new and different was about to transform the lives of the people of Wales. There was rhetoric about a new sort of politics – a sort of Welsh Utopia. It is good to have high goals, but transforming politics is rarely realised. The balance between realism and idealism needs to be maintained if public disillusionment is to be avoided.

Public support depends on delivery of better outcomes. This can be helped in the early days of devolution through populist measures and “quick wins”. So in Wales, a tax charged on medicines was abolished (it is still charged in England). However, there are problems inherent in actions like this. The measures have to be paid for, and people are more interested in fundamental issues such as the quality of health and education provision. In Wales, there is currently a perception that the quality of these has fallen since devolution.

Constitutional issues are of little interest to the public. They are much more concerned with the things that affect their day-to-day lives. Engagement with citizens, and responding to their needs in a way that distant national governments cannot are the surest ways of sustaining devolution. Again public opinion polling is a very good way of gauging this.

Devolution as a good

In Wales, the evidence is that the system of devolution is increasingly accepted and welcomed. In Scotland, that is even more the case. Few people in Spain want to return to a centralised State, and there is little or no pressure in long-standing federations like Germany, Canada, Nigeria or India to move away from the federal system.

The process of decentralisation brings many problems, as the experience of the UK over the last 20 years has shown. But devolution of power can bring real benefit to the citizen, and that makes it worth all the effort.

Citizen-centred devolution should be the aim if devolution is truly to succeed

Devolution and the system of Government in Wales

History

Wales is a largely mountainous region to the west of England. It was conquered by England almost 800 years ago. Various later rebellions were repressed. Wales's original separate system of laws was abolished 450 years ago. In the 19th century, steel and coal made Wales rich, and many people immigrated to Wales. The 20th century saw steady economic decline, but Wales retained its cultural and religious identity, as well as its more radical politics. It also kept its own language (currently spoken by around 20% of the population and having full official status).

Attempts to give Wales a form of self-Government failed in the 19th and early 20th centuries. After a number of false starts, Wales eventually voted in 1998 by just 50.3% to 49.7%, on a 50.1% turnout, for a very weak form of devolution. That has been refined, developed and strengthened since. Recent opinion polls suggest that those opposed to the National Assembly now make up about 15% of the population, while almost half of the population support the devolution of more powers to Wales. Unlike in Scotland, there is a very low level of support for independence for Wales,

Politics

Powers over health, transport, education, agriculture, economic development, the environment, sport, culture and housing are largely devolved to Wales, and certain taxation powers are in the process of being devolved (including a shared responsibility for income tax). Foreign affairs, defence, policing, justice, macro-economic policy and welfare are not devolved.

There is a Welsh Government, headed by a First Minister and supported by a civil service that forms part of the UK civil service. The Welsh Government is responsible to the directly-elected National Assembly for Wales. The Assembly has legislative responsibilities in devolved fields and holds the Welsh Government to account.

The UK Government is responsible for non-devolved areas of policy in Wales. One Cabinet Minister in the UK Government has the title of "Secretary of State for Wales". He is not equivalent to a Governor in other systems, but is essentially a link between the UK Government and Welsh institutions. The Secretary of State and First Minister meet regularly, and there is also a Joint Ministerial Committee that brings together Ministers from the UK, Wales, Scotland and Northern Ireland. Working relations are set out in a series of "Devolution Guidance Notes".

Wales continues to elect Members to the UK Parliament, and the UK Parliament could in theory legislate on devolved matters, though there is a convention that it will not do so.

The Supreme Court of the UK has a role of adjudicating on whether a matter has or has not been devolved.

There are separate public agencies inside Wales that deal with devolved matters, but they normally work cooperatively with the equivalent UK-wide or England only body. For example, there is a public audit authority in Wales (the Wales Audit Office) that works with the UK-wide National Audit Office.

There are two other tiers of Government in Wales. The UK is part of the European Union, and there is a system of 22 elected local authorities in Wales that administer local services.

About the author



Sir Paul Silk chaired the UK Government's Commission on Devolution to Wales, producing two well-regarded reports - on fiscal powers in 2012 and on constitutional matters in 2014. For most of his career, he was a senior official of the British House of Commons, though he spent two years working on Northern Irish affairs. In 1998 he became involved in the drafting of the Standing Orders of the new National Assembly for Wales, and later served as the Clerk (Secretary General) of the National Assembly for Wales from 2001 till 2007. He is an honorary Professor at Cardiff University and has worked with national and regional parliaments in many countries. He was born and brought up in Wales, and lives there now. In January 2015 he was knighted for services to the Parliaments of, and devolution in, the United Kingdom.

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