

Devolution in Wales

Support for Devolution

Devolution in Wales was not inspired, as in Scotland, by a broad-based campaign. The commitment to devolution adopted by Labour in opposition in the mid-1990s was made against substantial resistance within the Labour Party, and with the memory of the resounding rejection in the 1979 referendum when four in five Welsh voters said ‘no’. The wafer thin approval of the introduction of the National Assembly for Wales (NAW) in the 1997 referendum (50.3% to 49.7%) was, against that inhospitable background, remarkable enough.

Table 1 Constitutional Options in Wales

	1999	2001	2003
Independence	10	12	14
Parliament	30	39	38
Assembly	35	26	27
No devolution	25	24	21

Source: ESRC and Wales Life and Times surveys

What is even more remarkable is how support for devolution has strengthened since 1997 (Table 1). 65%-plus now support devolution. Among those supporters there has emerged a marked preference for a more powerful form of devolution – a Parliament as in Scotland, with legislative and taxation powers – than the Assembly variant introduced in Wales, which has only ‘secondary’ legislative powers (see below).

This enthusiasm for devolution does not mean that the Welsh think the NAW has made much of an impact. Most people think the Assembly has made no great difference on matters such as health, education and the economy, though those who think it has made things worse are generally outweighed by those who see improvements. These assessments of limited impact may be a comment on the more modest form of devolution introduced in Wales, and even more clearly reflect a sense that UK government still has too much influence on the way Wales is run, while the NAW has too little and should have more (Table 2).

Table 2 Influence on the ‘Way Wales is Run’ (2003)

	Does Influence	Ought to influence
NAW	22	56
UK Government	58	29
Local Government	15	14
European Union	5	1

Source: Wales Life and Times surveys

Elections in Wales

As in Scotland the electoral system for NAW elections gives voters two choices: for conventional constituency candidates; and for party preferences in regional super-constituencies. The results in the regional contests are used to introduce an element of proportionality (‘top-up’) into the NAW. There are fewer top-up seats than in Scotland. The results from constituency contests therefore weigh more heavily. Labour’s traditional dominance in the industrial constituencies in south Wales means that it has been, and will likely remain, by some way the biggest party after the two NAW elections so far.

That dominance has not yet extended to a stable majority for Labour. Labour governed as a minority government from 1999-2000 before entering a coalition with the Liberal Democrats under First Minister Rhodri Morgan. After the 2003 election Morgan established a single party Labour administration, but in a finely balanced Assembly has still had to cultivate cross-party support. Plaid Cymru, the Welsh nationalist party remains the leading opposition party, though saw a fall in support in 2003.

Welsh voters appear to make different kinds of judgement in NAW as compared to UK elections. As in Scotland there is a trade-off between Labour and the nationalists. Plaid Cymru is better supported for NAW than UK elections, and Labour vice versa. Our survey analysis suggests that those voters who switch from a UK election preference for Labour to Plaid Cymru in devolved elections do so because of a concern with Wales-specific issues. Plaid Cymru is evidently felt to be the better choice by those voters for the Wales-only context of NAW elections (and Labour the better choice in the UK-wide context).

Institutional Performance and Policy Innovation

Rhodri Morgan's NAW government has been keener to establish a distinctive profile vis-à-vis Westminster than its Scottish counterpart. Morgan has used the rhetoric of 'clear red water' to convey a sense that his Government is of a more traditional Labour hue than 'New Labour' in Westminster. It has resisted the New Labour agenda, rolled out in England since 1997, of providing 'choice' in citizens' access to public services and of performance monitoring by targets and league tables, preferring to restate 'traditional' Labour commitments to universalism.

Though some of Morgan's 'clear red water' is no more than oppositional rhetorical. It is useful in meeting the competitive challenge posed by Plaid Cymru by conveying a sense of a government pursuing distinctive Welsh interests against a remote Westminster (even if, at the moment, Westminster is run by the same party). However notable policy divergences have emerged. The NAW has pioneered new initiatives in early years/childcare policies and committed itself to the reduction and eventual abolition of prescription charges.

It has also reorganised the National Health Service to work on local government boundaries in Wales, in part to enable joint working with local authorities to pursue a preventive public health agenda, in part because it inherited only a weak administrative infrastructure and policy capacity from the old Welsh Office and needed to draw on local government resources and expertise. Because of these capacity deficits there is a sense, confirmed in our policy seminars, that in health and other fields the NAW has been part-captured by 'producer' interests in the local public sector.

That those local public sector interests are traditionally dominated by Labour points to an emerging feature of devolution in Wales: despite the aspirations pre-devolution for an inclusive 'new governance' Wales remains a Labour stronghold, and Welsh Labour is not pluralist by instinct. One of the other major divergences in Wales from the wider English/UK pattern can be understood in that light: the 2004 decision to abolish most Assembly-sponsored quangos in Wales by bringing them under direct Assembly control.

Centralist, one-party domination is not unusual in comparative regional politics, and should hardly surprise in a nation traditionally dominated by Labour and with a form of electoral

system less proportional than in Scotland and more likely to embed Labour dominance in the Assembly. But that does not make its emergence in Wales any less striking.

A Settled Will? Continuing Devolution Reforms in Wales

The Welsh devolution settlement is complex. There is no neat split as in Scotland between powers reserved to Westminster and powers that are devolved. Devolution in Wales is based on the NAW issuing secondary legislation where it is empowered to do so by individual Westminster laws. Those empowerments are based in a patchwork of over 400 laws in the Westminster statute book, some of which were made well over a century ago, and many of which set tight conditions on the leeway of the NAW to act.

These arrangements give the NAW a split role: it has to make sense of accumulated secondary legislative powers; and it has to lobby Westminster to give it powers where it thinks it needs them. The Assembly has played this dual role with some skill, opening up scope to introduce a number of distinctive policies, as noted above. But even insiders, let alone the general public, can find it difficult to know just what it is the Assembly can or cannot do. And the pressure of the parliamentary timetable at Westminster – and the marginality of Wales in an England-centred Westminster mindset – mean it can be difficult for the NAW to persuade the UK government to take its concerns on board.

These problems of legislative process were the main prompt for the establishment of a Commission under Labour peer Lord Richard to review the powers of the NAW. Richard's remit also covered electoral arrangements – reflecting a residual Labour distaste for the NAW's semi-proportional electoral system – and the organisation of business in the Assembly. Richard's main recommendations, published in March 2004, drew strongly on ESRC research and are summarised in Box 1.

Box 1: Recommendations of the Richard Commission in Wales

- Transformation of the National Assembly into a legislative assembly with primary legislative powers on all matters not reserved to Westminster
- Widening of the scope of the Assembly's discretion in secondary legislation as an interim measure pending award of primary legislative powers
- Assembly to increase in size from 60 to 80 AMs to deal with extra legislative workload
- 'Additional member' electoral system to be replaced by single transferable vote

The Richard Commission was established by the NAW, but its recommendations were addressed at Westminster, which has a reserved power in constitutional matters. The response at Westminster was cautious, reflecting the ambivalence of many Welsh Labour MPs about devolution. Only in July 2005 – after the intervening Westminster election – was a White Paper on Welsh devolution published, with a Bill then introduced to Parliament in December 2005.

The UK government's proposals include provisions for clarifying how the NAW does its business, including the introduction of a formalised separation of executive and legislative roles, and some minor reforms to the current electoral system designed to prevent individuals standing both as constituency candidates and as party nominees in the regional super-constituency contests. And, up to a point, the government has followed Richard's recommendations on powers, but in a protracted, three-stage process:

1. Introducing immediately guidelines on empowering the NAW through Westminster Acts which would leave greater leeway for NAW to develop its own distinctive policies
2. Allowing the NAW to call for powers delegated from Westminster to amend legislation or make new provisions in fields where the Assembly currently has functions (i.e. in principle across the 400 or so Westminster statutes which empower the NAW)
3. Devolving to the NAW primary legislative powers (i.e. not dependent on Westminster empowerment) in fields where the Assembly currently has functions (i.e. approximating to the Scottish model of devolution).

Of these, Stage 1 in principle applies already though it is too early to judge what difference has been made. Stage 2 could follow once the Government of Wales Bill is enacted. But there is no timetable for Stage 3, and a transition to Stage 3 would in any case depend on endorsement in a referendum. In other words reform to the devolution settlement is going to stay on the political agenda in Wales, but according to a rather open-ended road map.

But in the interim, as the body of Welsh secondary legislation develops, and as practices designed to make a complex system work more effectively mature, a distinctive Welsh legal and policy space is in any case emerging. The effect is to carve out a fuller sphere of autonomy in some respects irrespective of Westminster's map. As Richard Rawlings put it in ESRC-supported work, devolution in Wales is an example of a mountain steadily emerging from the constitutional molehill that the initial Government of Wales Act of 1998 represented.