



Groundings Undergraduate Academic Journal
University of Glasgow | Glasgow University Union

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Source: Groundings Undergraduate, April 2022, Vol. 13, pp. 27-39

Published by: University of Glasgow, Glasgow University Union Publications

ISSNs: 1754-7474 (Print) | 1755-2702 (Online)

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A Failed Upheaval? Evaluating the Success of the Scottish Parliament's 'New Politics' Aspirations

Duncan Henderson

Opposition to the adversarial politics of the Westminster Parliament was closely interwoven with the campaign for Scottish devolution. Upon its foundation, the initial proponents of Scottish devolution intended for the new Scottish Parliament to embrace a more consensual 'new politics'. Evaluating the success of these aspirations through the framework of the Consultative Steering Group's principles of power-sharing, accountability, access and participation, and equal opportunities, this essay argues that the Scottish Parliament has not delivered the 'new politics' expected upon its foundation.

Introduction

Opposition to the Westminster model and its confrontational style of politics was central to aspirations for a devolved Scottish Parliament. Reflecting this discontent and the associated desire to reject the Westminster model and create a 'new politics'¹, the Scottish Constitutional Convention articulated its desire for the Scottish Parliament to be 'radically different from the rituals of Westminster: more participative, more creative, and less needlessly confrontational'.² The Consultative Steering Group sought to translate this ambition into practice following the public endorsement of a Scottish Parliament in the 1997 referendum, establishing four principles for itself and the nascent Scottish Parliament: power-sharing, accountability, access and participation, and equal opportunities – each reflecting an aspect of the 'new politics' desired in the Scottish Parliament.³ The extent to which the Scottish Parliament

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1 James Mitchell, 'New Parliament, New Politics in Scotland', from *Parliamentary Affairs* (2000), 53.3: 605, Emily St Denny, 'The Scottish Parliament', in *The Oxford Handbook of Scottish Politics*, ed. Michael Keating (Oxford: Oxford University Press, 2020), 482.

2 Scottish Constitutional Convention, *Scotland's Parliament: Scotland's Right* (1995), 11, <<https://paulcairney.files.wordpress.com/2015/09/scc-1995.pdf>> [Accessed 11 December 2021].

3 Consultative Steering Group, *Shaping Scotland's Parliament: Report of the Consultative Steering Group on the Scottish Parliament*, (Edinburgh: The Scottish Office, 1998), 2-6, <https://archive2021.parliament.scot/PublicInformationdocuments/Report_of_the_Conconsultative_Steering_Group.pdf> [Accessed 11 December 2021].

has successfully fulfilled these founding aspirations of a ‘new politics’ is a topic of extensive and ongoing academic debate.⁴ Whilst the Parliament’s institutional design, procedures, and ability to near-singlehandedly transform Scotland’s political culture have been extensively reviewed and critiqued previously, no works thus far have used the Consultative Steering Group’s principles as a framework to evaluate the success of the ‘new politics’ aspirations.⁵ Overall, this paper argues that, in addition to the deficiencies previously addressed in the literature, the Scottish Parliament has failed to fulfil the Consultative Steering Group’s principles, consequently failing to live up to the ‘new politics’ desired upon its foundation.

In advancing this argument, this paper refers to the principles of power-sharing, accountability, access and participation, and equal opportunities, seeking to explain how the Consultative Steering Group intended for these principles to be fulfilled and how this is reflected in the Scottish Parliament’s structures. Considering each principle in turn and citing evidence from throughout the Scottish Parliament’s existence, this paper analyses the extent to which each has been successfully fulfilled. It concludes that the Scottish Parliament has failed to live up to its ‘new politics’ aspirations in each of the four principles.

Power-sharing

Selecting the Mixed Member Proportional Representation (MMP) electoral system for the Scottish Parliament’s elections was closely aligned with the power-sharing principle, intended to eschew the single-party governments and executive dominance common in the Westminster model and instead embed power-sharing as a political necessity in the Scottish Parliament.⁶ Reflecting the contemporary wisdom that it would be extraordinarily difficult, if not impossible, for any single party to win a parliamentary majority in an MMP election, its use in Scottish Parliament elections was intended to reduce executive dominance and require broad political support for any executive to be able to pass its policies.⁷ Whilst a single-member plurality electoral system commonly results in dominant single-party majority governments in the Westminster Parliament (‘elective dictatorships’⁸) the use of MMP was

⁴ St Denny, ‘Parliament’, 489.

⁵ James Mitchell, ‘The Narcissism of Small Differences: Scotland and Westminster’, from *Parliamentary Affairs* (2010), 63.1: 99.

⁶ St Denny, ‘Parliament’, 482.

⁷ *Ibid*, Mitchell, ‘Narcissism’, 103.

⁸ Deborah Mabbett, ‘Testing the Limits of Elective Dictatorship’, in *The Political Quarterly* (2020),

intended to require multi-party coalition governments or minority governments in the Scottish Parliament.⁹ Theoretically, this would result in the sharing of executive power amongst a wider range of MSPs and allow for greater parliamentary influence over the executive and its policy-making.¹⁰

The 2007 -- 2011 Scottish National Party minority government provides the best example of the power-sharing principle of the Scottish Parliament being successfully met.¹¹ Whilst Scottish Labour won a majority of constituency seats in the 2007 Scottish Parliament election, and therefore would have won a majority under an identical single-member plurality system in identical circumstances, the Scottish National Party benefitted from the proportionality of the MMP system and won one seat more than Scottish Labour.¹² The Scottish National Party subsequently formed a minority government, commanding 47 seats in the 129 seat legislature¹³: the only substantial minority government to date.

During the 2007-11 Scottish Parliament, the SNP were consequentially required to rely on the support of other parties to pass legislation,¹⁴ forming temporary alliances with other parties on an issue-by-issue basis.¹⁵ Opposition parties inflicted some significant defeats, including blocking proposals for a referendum on Scottish independence during the 2007-11 parliamentary term,¹⁶ but the SNP minority government successfully implemented most of its proposals through negotiation and compromise with other parties.¹⁷ Although Harvey argues that this political cooperation was out of strict political necessity rather than a substantive commitment to the principle of power-sharing, Crawford states that 'minority government has

91.4: 704.

9 St Denny, 'Parliament', 482.

10 Ibid.

11 Bruce Crawford, 'Ten Years of Devolution', from *Parliamentary Affairs* (2010), 63.1: 93.

12 Scottish Parliament Information Centre, *Election 2007* (2007) <<https://archive2021.parliament.scot/SPICeResources/Research%20briefings%20and%20fact%20sheets/SB07-21.pdf>> [Accessed 4 March 2022].

13 Ibid.

14 Thomas C. Lundberg, 'Politics is Still an Adversarial Business: Minority Government and Mixed-Member Proportional Representation in Scotland and in New Zealand', in *British Journal of Politics and International Relations* (2013), 15.4: 617.

15 Crawford, 'Years', 92.

16 Severin Carrell, 'Alex Salmond's Scottish independence referendum bill 'dead in the water'', *The Guardian*, (2009), <<https://www.theguardian.com/politics/2009/mar/05/snp-independence-referendum-plan-rejected>> [Accessed 15 February 2022].

17 Crawford, 'Years', 93.

worked well for Scotland’ and highlights significant cooperation during the 2007-11 parliamentary term.¹⁸ Consequentially, the Scottish Parliament was closer aligned to Lijphart’s consensus model of democracy, with this period representing an example of the ‘new politics’ intended from the Scottish Parliament.¹⁹

Whilst there has only been one single-party majority government since the establishment of the Scottish Parliament,²⁰ the power-sharing and consensus-seeking during the 2007-11 SNP minority government is a historical exception. Other governments, including multi-party coalitions, have more commonly displayed majoritarian traits. After the Scottish National Party won a majority of seats in the 2011 Scottish Parliament election, it largely ceased the consensus-seeking that had characterised its 2007-11 minority government and adopted a significantly more majoritarian approach. Instead, it governed akin to a typical Westminster majority government with the First Minister retaining ultimate authority over government policy and opportunities for accountability, notably Minister’s Questions and First Minister’s Questions, being solely ‘an opportunity for partisan point-scoring [...] rather than a significant attempt to hold the government to account.’²¹ This continued adversarialism and executive dominance indicates that the Scottish Parliament has failed to substantially embed power-sharing and move beyond majoritarian governments.

Best exemplified by the 1999-2007 Labour-Liberal Democrat coalitions, parties typically only engage in the power-sharing and consensual aspects of the ‘new politics’ when it is a political necessity for them to do so, the same as in the Westminster Parliament. Whilst narrowly fulfilling the principle of power-sharing by virtue of being a two-party coalition, the 1997-2007 Labour-Liberal Democrat coalitions failed to display a substantive commitment to power-sharing, generally observed to have been governing in a majoritarian manner.²² Taken together, both of these examples represent a failure to embed meaningful power-sharing into the Scottish Parliament

18 Malcolm Harvey, ‘Devolution’, in *The Oxford Handbook of Scottish Politics*, ed. Michael Keating (Oxford: Oxford University Press, 2020), 378.

19 Lundberg, ‘Adversarial’, 618, Arend Lijphart, *Patterns of Democracy*, (New Haven: Yale University Press, 1999

20 Lundberg, ‘Adversarial’, 617.

21 Harvey, ‘Devolution’, 378.

22 *Ibid.*, Mitchell, ‘Narcissism’, 112, Paul Cairney & Anders Widfeldt, ‘Is Scotland a Westminster-style Majoritarian Democracy or a Scandinavian-style Consensus Democracy? A Comparison of Scotland, the UK and Sweden’, *Regional and Federal Studies* (2015), 25.1: 9.

beyond circumstances where it is a political necessity, in turn indicating that the Scottish Parliament has been unsuccessful at fulfilling the power-sharing principle.

Accountability

The Consultative Steering Group intended to embed accountability into the Scottish Parliament through regular questions to Government Ministers, replicating the adversarial system used in the Westminster Parliament, and the creation of notionally powerful committees.²³ Intended, in part, to replace the scrutiny and ‘check and balance’ functions typically expected of the upper house in a bicameral legislature (such as the House of Lords in the UK Parliament),²⁴ the Scottish Parliament’s committees hold comparatively more powers than committees in other western European legislatures²⁵, reflecting the intention for powerful committees to fulfil the principle of accountability and for them to be a core component of the Scottish Parliament. Further reflecting the contemporary wisdom that MMP should prevent single party dominance, the political composition of the Scottish Parliament’s committees is reflective of the political composition of the Scottish Parliament as a whole: intended to prevent any single party from obstructing the work of committees or dominating committee investigations.²⁶

In addition to the uncommon power to initiate legislation,²⁷ the Scottish Parliament’s committees are also empowered to scrutinise and amend proposed legislation, hold inquiries on any relevant topics of interest, and take witness evidence to aid legislative scrutiny and inform inquiry reports.²⁸ In line with the ‘new politics’ expectations for the Scottish Parliament, these powers are intended to embed committees and accountability more broadly into the Scottish Parliament.²⁹ Scholars such as Cairney have cited the success of committees in amending legislation, scrutinising government proposals, and exerting informal pressure on the executive to alter its proposals to

23 Mitchell, ‘Narcissism’ 109, St Denny, ‘Parliament’, 483, Alice Brown, ‘Designing the Scottish Parliament’, *Parliamentary Affairs* (2000), 53.3: 549.

24 Hector MacQueen, ‘A Second Chamber for the Scottish Parliament?’, from *Scottish Affairs* (2015), 24.4: 438.

25 Paul Cairney, ‘The analysis of Scottish Parliament committee influence: Beyond capacity and structure in comparing West European legislatures’, in *European Journal of Political Research* (2006), 45.1: 183.

26 Brown, ‘Designing’, 459.

27 Cairney, ‘Committee’, 185.

28 *Ibid*, 184-185.

29 *Ibid*, 181.

avoid lengthy amendment processes.³⁰ Although not universally accepted,³¹ this indicates some successes for the Scottish Parliament's committee system in fulfilling the aspirations for a 'new politics'.

Despite intention that these powers would embed accountability into the Scottish Parliament's legislative process, the accountability aspect of the Scottish Parliament's 'new politics' aspirations remain unfulfilled. Committees have failed to meaningfully exercise the powers assigned to them and, in some cases, lack powers that would aid inquiries and enable greater accountability. Whilst legislation has been influenced by the relevant topical committee and amended accordingly³² – thereby partly fulfilling the scrutinising function – committees have been markedly less effective in fulfilling their other functions, particularly those aligned to the 'new politics'.³³ For example, committees have the power to initiate legislation, but this is rarely used. Only three Committee Bills were introduced in the 2016 - 2021 session of the Scottish Parliament – in contrast to 17 Private Members' Bills and 63 Government Bills,³⁴ with committees typically lacking the financial resources and time required to research issues, consult with interested groups, and draft legislation – severely limiting their ability to exercise this power more frequently.³⁵

Additionally, the difficulties faced by the Committee on the Scottish Government Handling of Harassment Complaints further indicates the ineffectiveness of the investigative powers granted to committees, with the inquiry frequently unable to proceed to due to the inability of the committee to compel witnesses to give evidence.³⁶ This reflects a wider failing in the institutional design of the Scottish Parliament and its committees; this power is held by notionally less powerful committees in the Westminster Parliament.³⁷ Moreover, indications of executive dominance are

30 *Ibid*, 187.

31 St Denny, 'Parliament', 490.

32 Cairney, 'Committee', 184.

33 St Denny, 'Parliament', 490.

34 Scottish Parliament, *Bills and Laws*, (2021), <<https://parliament.scot/bills-and-laws/bills>> [Accessed 14 December 2021].

35 Cairney, 'Committee', 185

36 BBC News, *Alex Salmond inquiry 'cannot proceed due to obstruction'* (2020), <<https://www.bbc.co.uk/news/uk-scotland-scotland-politics-54343018>> [Accessed 14 December 2021], BBC News, *Alex Salmond urged to appear at Holyrood inquiry* (2021), <<https://www.bbc.co.uk/news/uk-scotland-scotland-politics-55663514>> [Accessed 15 December 2021].

37 Hannah White, 'In contempt? Witnesses before select committees', from *Institute for Government* (2016), <<https://www.instituteforgovernment.org.uk/blog/contempt-witnesses-select-committees>> [Accessed 15 December 2021].

increasingly identifiable in the Scottish Parliament's committees, largely as a result of the political composition of the committees mirroring that of the Scottish Parliament as a whole.³⁸ As the Scottish Parliament has often had a majority government – either formed by a single-party or the result of a two-party coalition or other formal agreement – this majority is, as a result, guaranteed in the committees intended to hold the Scottish Government to account. Resulting, therefore, from failings in the institutional design of the Scottish Parliament and the limited use of existing committee powers, the Consultative Steering Group's principle of accountability is unfulfilled.

Access and Participation

Alongside the conventional and largely limited means of participation such as school visits and a publicly accessible viewing gallery,³⁹ a novel public petitions system was intended to fulfil the Consultative Steering Group's principle of access and participation.⁴⁰ Intended to increase participation from groups that do not typically participate in conventional political activities, the Scottish Parliament's public petition system is designed to allow anybody to raise an issue and propose a change in the law.⁴¹ All submitted petitions are considered by the Scottish Parliament's Public Petitions Committee with no minimum signature threshold.⁴² In contrast, petitions submitted to the Westminster Parliament must receive at least 10,000 signatures to receive a response from HM Government and at least 100,000 for Westminster's Petitions Committee to consider a parliamentary debate on the topic.⁴³ These differences between the Scottish and Westminster Parliaments would suggest that the Scottish Parliament's petitions system is evidence of the principle of access and participation fulfilled, providing an example of the 'new politics' in practice; indeed, Carman importantly identifies significant changes to existing legislation and amendments to proposed legislation as a result of the Scottish Parliament's public petitions system.⁴⁴

In truth, the Scottish Parliament's public petitions system is less effective at enabling

38 MacQueen, 'Chamber', 483.

39 Brown, 'Designing', 549.

40 Christopher Carman, 'Barriers are Barriers: Asymmetric Participation in the Scottish Public Petitions System', from *Parliamentary Affairs* (2014), 67.1: 152.

41 Consultative Steering Group, 'Report', 63.

42 Carman, 'Barriers', 157.

43 UK Parliament, *How petitions work*, (2021), <<https://petition.parliament.uk/help>> [Accessed 15 December 2021].

44 Carman, 'Barriers', 152.

access and participation than the above points would suggest, and particularly in regards to enabling access for those who do not typically participate in conventional politics. Despite the intention that the public petitions system would enable participation from a diverse range of people and groups,⁴⁵ there is little evidence that this objective has been fulfilled. As Carman highlights, public knowledge of the petitions system is poor and a majority of Scots do not know about the system at all.⁴⁶ Knowledge among those who are aware of its existence, those most likely to be politically engaged, is further limited to a basic awareness of its existence rather than any substantive knowledge of its functions or processes.⁴⁷ As a result of this lack of genuine awareness among the vast majority of the Scottish population, the public petitions system is used near-exclusively by the ‘usual suspects’ who engage with most other forms of political participation.⁴⁸ Specifically, petitioners are typically well-educated, politically informed, middle-class men, far from the broader range of people and groups the public petitions system was intended to attract.⁴⁹ Whilst the Scottish Parliament’s public petitions system has theoretically enabled some access and participation by allowing anybody to submit a petition and have it considered by the Public Petitions Committee, the system has been unsuccessful at increasing access and participation in practice.

Equal Opportunities

Reflecting the role of women’s groups in the devolutionist movement, a commitment to equal opportunities was established as a principle for the Scottish Parliament, including a microcosmic view of political representation.⁵⁰ Seeking to embed equal opportunities, the institutional design of the Scottish Parliament was intended to enable all MSPs to balance political and family life and allow a larger number of women to pursue a political career by removing or mitigating previous barriers.⁵¹ This includes the provision of a parliamentary crèche, restricting parliamentary business to family-friendly working hours, and aligning parliamentary recesses to school holidays.⁵² Additionally, the MMP electoral system was intended to contribute

⁴⁵ *Ibid*, 159.

⁴⁶ *Ibid*, 152.

⁴⁷ *Ibid*.

⁴⁸ *Ibid*, 159.

⁴⁹ *Ibid*.

⁵⁰ Mitchell, ‘Narcissism’, 103.

⁵¹ Brown, ‘Designing’, 550.

⁵² Meryl Kenny & Fiona Mackay, ‘Women, Gender, and Politics in Scotland’, in *The Oxford Handbook of Scottish Politics*, ed. Michael Keating, (Oxford: Oxford University Press, 2020),

to equal opportunities and microcosmic representation by allowing parties to ‘twin’ constituencies and place women and other underrepresented groups in advantageous positions on regional lists to enable their election.⁵³

These measures were initially relatively effective: at least, in relation to women’s representation. Women made up 37% of MSPs in the 1999-2003 session,⁵⁴ rising to 40% of MSPs in the 2003-2007 session,⁵⁵ with the initial proportion of women MSPs being significantly higher than the proportion of women MPs.⁵⁶ After these large proportions of female MSPs were elected in 1999 and 2003, Mackay & Kenny described the Scottish Parliament as ‘one of the world leaders’ on female political representation.⁵⁷ Additionally, the proportion of women elected to the Scottish Parliament is higher compared to the proportion of women elected as local authority Councillors,⁵⁸ indicating that increased female representation in the Scottish Parliament is at least somewhat independent of broader societal shifts in political gender norms. Although not achieving any full equal representation instantly, this initial progress seemingly evidences the Scottish Parliament’s success in fulfilling the equal opportunities principle, with increased women’s representation and a general trend towards microcosmic representation.

The Scottish Parliament has thus far failed to achieve microcosmic representation for other minority groups, however, and no further progress on women’s representation was made until the 2021 Scottish Parliament election.⁵⁹ Indeed, despite the initial ambitions for 50:50 gender representation among MSPs,⁶⁰ little progress on women’s representation was made between the 2003 election and 2021 election. Noting this lack of progress, Mitchell alleged that the lack of development on microcosmic representation indicates that the equal opportunities principle has ‘fallen off the

53 Brown, ‘Designing’, 551, Kenny & Mackay, ‘Women’, 63.

54 Brown, ‘Designing’, 551.

55 Kenny & Mackay, ‘Women’, 63.

56 Brown, ‘Designing’, 551.

57 Fiona Mackay & Meryl Kenny, ‘Women’s Representation in the 2007 Scottish Parliament: Temporary Setback or Return to the Norm’, from *Scottish Affairs* (2007), 60.1: 80.

58 Esther Breitenbach, ‘Scottish Women and Political Representation in the UK and Scottish Parliaments (1918–2020)’, from *Open Library of Humanities* (2020), 6.2: 20.

59 Timothy Pearce, ‘The Journey to a More Diverse Scottish Parliament’, from *Centre on Constitutional Change*, <<https://www.centreonconstitutionalchange.ac.uk/news-and-opinion/journey-more-diverse-scottish-parliament>> [Accessed 17 February 2022].

60 Kenny & Mackay, ‘Women’, 63.

agenda.⁶¹ A decrease on the peak of 40% of MSPs in 2003, women made up 36% of MSPs in the 2016-2021 session, a lower figure than the Welsh Senedd (47%) and similar to the proportion of women MPs (34%).⁶²

Furthermore, the initial progress on women's representation obscures broader failures in securing microcosmic representation and ongoing underrepresentation of other minority groups. If the Scottish Parliament was perfectly representative of the demographics of Scottish population – as the Scottish Constitutional Convention indicated it should in declaring a commitment to equal gender representation⁶³ – approximately 5 MSPs would be from an ethnic minority group, reflecting 4% of the population.⁶⁴ Yet, just two ethnic minority MSPs were elected in 2016 and, prior to the 2021 election, only four ethnic minority MSPs had ever been elected, all of whom were from the same ethnic background.⁶⁵ This discrepancy further indicates that the Scottish Parliament has not fulfilled its equal opportunities principle and that, once again, aspirations for a 'new politics' have not been met.

Conclusion

In conclusion, the Scottish Parliament was founded with aspirations of a 'new politics', exemplified in the principles of the Consultative Steering Group as analysed in this essay: power-sharing, accountability, access and participation, and equal opportunities. Drawing on the existing literature and citing relevant examples, this paper considered how each principle was intended to be fulfilled and evaluated the practical fulfilment of each principle in turn. Significant deficiencies were found in relation to each principle, with the principle of power-sharing compromised by a tendency towards majoritarian rule; accountability similarly compromised by executive dominance of committees and ineffective powers for these committees; access and participation compromised by a lack of public knowledge about the public petitions system intended to be at the principle's core; and equal opportunities compromised by a failure to achieve or make significant progress towards the goal

61 Mitchell, 'Narcissism', 111.

62 Elise Uberoi et al, 'Women in politics and public life', from House of Commons Library, HC 01250, 2019-Present, (2021), <<https://commonslibrary.parliament.uk/research-briefings/sn01250/>> [Accessed 15 December 2021], 12.

63 Scottish Constitutional Convention, 'Right', 22.

64 National Records of Scotland, Scotland's Census 2011: Ethnic groups, Scotland, 2011 (2011), <<https://www.scotlandscensus.gov.uk/bulletin-figures-and-tables/>> [Accessed 15 December 2021].

65 Kenny & Mackay, 'Women', 66, BBC News, Why are there so few ethnic minority MSPs?, (2020), <<https://www.bbc.co.uk/news/uk-scotland-53322950>> (Accessed 14/12/2021)

of microcosmic political representation. Whilst progress has been made in fulfilling some principles as highlighted, and whilst some failures are more significant for the 'new politics' than others, the Scottish Parliament has failed to meaningfully fulfil each of the Consultative Steering Group's principles and consequently failed to fulfil the aspirations for a 'new politics'.

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