FISCAL AUTONOMY IN SCOTLAND

***By Charlie Jeffery*[1]**

ASYMMETRY IN THE UNITED KINGDOM

The way the United Kingdom's component parts – England, Northern Ireland, Scotland and Wales – are governed is unusually asymmetrical. Northern Ireland, Scotland and Wales have had devolution since 1999, that is directly elected representative institutions with significant policy responsibilities (though for substantial periods since 1999 the devolved institutions in Northern Ireland were 'suspended'). The package and scope of policy responsibilities each has differs. Scotland and Northern Ireland have a generally but not entirely similar package of policy responsibilities, extending across many fields of domestic policy. Wales has policy responsibility in most, but not all, of the same areas, but less scope in exercising them. Scotland and Northern Ireland have full legislative powers in their fields of responsibility and exercise those powers as a rule autonomously of the UK Parliament. Wales has 'secondary' legislative powers, dependent in case-by-case empowerments to act in individual UK Parliament Acts, though with the possibility to widen the scope of those empowerments introduced in supplementary devolution legislation in 2006.

The devolved institutions are also structured differently. The Scottish Parliament and National Assembly for Wales operate with a conventional government-opposition divide, while the Northern Ireland government is a proportional, or 'involuntary' coalition involving all parties with a significant presence in the Northern Ireland Assembly. Proportional government is one of a range of mechanisms designed to institutionalise cooperation across Northern Ireland's divided communities in a broadly consociational government form.

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One of the few areas where the devolved institutions have common arrangements is in the way they are funded. These arrangements are set out below; this contribution argues that this area of commonality is likely increasingly to diffuse into different sets of territorial financial arrangements attuned to the particular circumstances of each part of the UK. This has been the wider pattern since the introduction of devolution: the emergence and consolidation of disconnected, even centrifugal territorial dynamics.

These disconnections also apply to England. Though England lacks its own devolved institutions, it too has a distinctive form of territorial government; it is governed directly by UK central government institutions, which combine UK-wide roles with England-only ones. England has diverged from Scotland, Wales and Northern Ireland both by default (in the sense of not having its own representative institutions) and by design (as UK governments have introduced policies in England that follow different priorities to those outside of England).

THE UK'S TERRITORIAL FINANCIAL ARRANGEMENTS

The UK's territorial financial arrangements are unique. The level of public spending on policies in England is decided by the UK Parliament, and financed from general UK taxation. Spending and financing decisions that impact on England only are made on the same basis as spending and revenue-raising on policies with a UK-wide reach: by decision of the UK Parliament. UK Parliament decisions on spending in England are also one of the main determinants of the funding of the devolved institutions. The other is history. This mix of England and history is explained below using the example of the Scottish Parliament, though the arrangements for Wales and Northern Ireland are essentially the same.

The bulk of Scottish revenues are allocated by a UK Government block grant. This grant has two components: a baseline; and an annual increment. The baseline derived initially from the total amount of annual spending that was allocated to Scotland-specific policy programmes by the late 1970s (Scotland

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had distinctive policy arrangements, often known as administrative devolution, long before devolution, as to varying extents did Northern Ireland and Wales). From 1979 that spending total was established as a baseline subject to annual incremental change. Annual increments were – and remain – determined by what has become know as the 'Barnett Formula', named after the then deputy finance minister, Joel, now Lord Barnett. Increments are calculated by totalling any changes in UK Parliament spending decisions on those programmes in England which are comparable to programmes dealt with through Scotland-specific spending (that is those that now fall under the responsibility of the Scottish Parliament), and applying a population key. Scotland currently has 10.08 per cent of the population of England, so the Scottish Parliament gets 10.08 per cent of any changes (up or down) in spending on comparable programmes in England. Any one year's increment is added to the baseline taken forward into the next year, which then becomes the new baseline subject to further incremental change.

In 2007-8 the combination of baseline and increment allocated almost £27 billion to the Scottish Parliament. A further £4 billion was generated by local taxation decisions (on residential and business property) that fall under the responsibility of the Scottish Parliament. In addition, the Scottish Parliament has at its disposal the so-called 'tartan tax', the possibility of varying UK standard rate personal income tax by ±3 per cent. Though strongly endorsed in the 1997 referendum that led to the establishment of the Scottish Parliament, no Scottish Government has yet used its 'tartan tax' powers. Its probable yield would have been a maximum of around £1 billion in 2009 (CSD 2009: 71). There are no equivalents to the tartan tax in Wales and Northern Ireland.

The result is (also in the absence of any significant borrowing powers) that the great bulk of the revenues available to the Scottish Parliament is allocated to it by the UK Government, not as a result of devolved decision-making. The UK Government does not attach strings to this allocation. The Scottish Parliament has almost complete spending discretion (the only significant exception being 'additionality' contributions to European Union structural funding programmes which are hypothecated within the UK Government grant to particular spending

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purposes). This almost complete spending discretion has an additional nuance: for historical reasons (mainly a perceived need to counter the growth of Scottish nationalism) the baseline grant in Scotland supports per capita public spending in Scotland that is higher than per capita spending in England. In 2007-8 per capita spending in Scotland was at 118 per cent of the UK average. Wales and Northern Ireland also had spending premia (at 111 per cent and 122 per cent respectively). England's per capita spending by contrast was at 97 per cent of the UK average.

This territorial pattern of public spending does not reflect differential spending needs in any direct way beyond population weighting. Official UK Treasury needs assessments in both 1979 and 1993 suggested that Scotland received funding substantially more than its 'needs'. More recent attempts to assess relative need across the UK concur (Independent Commission on Funding and Finance for Wales 2009a; House of Lords 2009). Scotland (and Northern Ireland) appear consistently to have been over-funded relative to need, and Wales, at least according to the more recent assessments appears to be under-funded relative to need.

TERRITORIAL FINANCE UNDER CHALLENGE

It is not surprising that this system of territorial finance is under challenge. The mix of (large) UK grant and unfettered devolved spending does not produce clear lines of accountability to the taxpayer. And the absence of a clear relationship between needs and spending levels appears questionable on fairness grounds. What is striking is how the challenges that have emerged have been partial and territory-specific rather than focused on the system as a whole. Two UK parliamentary enquiries have recommended the introduction of a UK-wide system of needs-based fiscal equalisation, including a House of Lords special committee formed at the behest of Lord Barnett (House of Commons 2009; House of Lords 2009). Though not expressed directly, these recommendations were addressed primarily at heading off English resentments about higher per capita spending outside England and especially in Scotland.

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‘Fairness’ has also been the issue in Wales. A Commission on Funding and Finance in Wales established in 2008 focused on the relative under-funding of the National Assembly in relation to the level of need in Wales, which it estimated to require a spending premium of 114 per cent of the UK per capita average. While suggesting in a working paper that this might be addressed by a systematic UK-wide approach to needs assessment, with consequent adjustments (downwards) for Scotland and Northern Ireland (Independent Commission on Funding and Finance for Wales 2009b), the Commission’s formal recommendation has been Wales-specific: for every £1 of spending by the UK Government on spending in fields equivalent to those devolved to the National Assembly Wales should no longer receive a population share, but rather a needs weighting of £1.14 (Independent Commission on Funding and Finance for Wales 2009a).

The devolution finance debate has been muted in Northern Ireland, though there continue to be ad hoc adjustments to Northern Ireland-specific spending that emerge as side-payments to help overcome the periodic disputes between the Irish-nationalist and British-unionist parties in the Northern Ireland Assembly. The debate in Scotland has been both anything but muted and very different. Its focus has been not on relative need or extracting side payments but rather on fiscal autonomy.

FISCAL AUTONOMY IN SCOTLAND

There have been two variants of this debate: one has focused on fiscal autonomy as a means of rendering the spending decisions of the Scottish Parliament more accountable; the other has been about maximising the powers of the Parliament en route towards Scottish independence.

Fiscal Autonomy and Accountability

The accountability argument has been the preserve of the main unionist parties in Scotland, Labour, the Conservatives and the Liberal Democrats. It was a central theme in a special commission on devolution finance established by the

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Liberal Democrats that reported in 2006 (Steel Commission 2006). Voices close to the Conservatives in Scotland have argued for a substantial level of own resources for the Parliament (through assigned revenues from UK taxes and additional tax powers) (Reform Scotland 2008). And key figures in the Labour Party in Scotland – notably its former leader Wendy Alexander – have pushed in a similar direction. The motives have varied. The Liberal Democrat Steel Commission highlighted the potential for taxation powers as levers for economic managements and for changing environmental behaviour (Steel Commission 2006). Alexander (2007) noted the potential for a larger measure of fiscal autonomy in Scotland to help head off English resentments about Scottish public spending be enabling a reduction in the Scottish block grant. But the central theme has been the fiscal disciplining of what Alexander called the 'pocket money parliament', funded generously and without strings by an indulgent 'parent' at Westminster.

There has been considerable discussion about the comparative softness of budget constraints in Scotland since devolution. Until recently this has been a period of strong growth in UK public spending and, through the Barnett formula, the funding available to the Scottish Parliament. On that basis the Scottish Parliament has been able to introduce a number of high-cost policies not replicated elsewhere in the UK, such as publicly funded long term care for the elderly and the progressive abolition of all university tuition fees for Scottish-domiciled students. In other areas some policies have been interpreted as corporatist deals (e.g. on teachers' pay) or as benefits of the 'pork barrel' (e.g. on the funding and improvement of transport links in particular parts of Scotland). Some significant level of decision-making responsibility for raising the revenues that support spending would harden the budget constraint by creating a direct accountability to the taxpayer-voter in Scotland and in that way impose stricter disciplines on spending.

This argument about fiscal accountability and discipline has been put more strongly by unionist voices, especially in the Labour Party, since 2007 when the Scottish National Party (SNP) replaced Labour in government. One outcome

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was the Commission on Scottish Devolution which was established in April 2008 inter alia to 'improve the financial accountability of the Scottish Parliament' while continuing to 'secure the position of Scotland within the United Kingdom' (CSD 2009). The Commission's recommendations are discussed below.

Fiscal Autonomy en Route to Independence

The other strand in Scotland's fiscal autonomy debate is associated primarily with the SNP. Its core belief is that Scotland is a national community with distinctive interests, identity and needs and for these reasons should have self-government, including decision-making on taxation. There are both gradualist and maximalist variants of this belief, as reflected in the current debate in the definition of 'full' fiscal autonomy either as something conceivable within the UK state, or as a defining feature of an independent Scotland. This nationalist strand to the fiscal autonomy debate has also developed rapidly in the period since the SNP came into government in 2007, receiving support on the way from some academic economists on economic rather than political grounds (Hallward and MacDonald 2009). It too is discussed below.

THE COMMISSION ON SCOTTISH DEVOLUTION

The Commission on Scottish Devolution (CSD), chaired by Sir Kenneth Calman, was set up by decision of the Scottish Parliament (with the support of Labour, the Conservatives and the Liberal Democrats and against the opposition of the SNP) and supported by the Labour UK Government and the Conservatives and Liberal Democrats at Westminster. This unusual cross-party and cross-border body reported in June 2009 (CSD 2009).

Its recommendations fell in three main areas: a number of minor adjustments to the Scottish Parliament's policy responsibilities; a strengthening of the institutional relations between the Scottish and UK governments; and a significant extension of the Scottish Parliament's fiscal autonomy. Its recommendations were by far the most radical in the latter area. They proposed full devolution of tax powers in a number of fields with modest tax yields:

Aggregates Levy, Landfill Tax, Air Passenger Duty and Stamp Duty Land Tax. More significant was the CSD's recommendation on income tax. The CSD held the view that the tartan tax had never been used because there was no penalty for not using it; the Scottish Parliament's block grant remained at the same level. The CSD instead proposed the Parliament should be *required* to take a tax decision. The mechanism it proposed was one recommended to it by the Canadian public finance specialist Francois Vaillancourt, which was to set a 'default' rate of income tax in Scotland at ten percentage points less than in the rest of the UK (with the reduction applying at all income tax bands, currently 20%, 40% and 50%). The block grant would be commensurately reduced. It would then be a decision for the Scottish Parliament whether to replicate the UK rate, or set income tax below or above it. Together with existing powers on local taxation, the CSD estimated that these changes would leave the Parliament responsible for raising around 35% of its expenditures (see Table 1), around two and a half times the current level. Finally the CSD recommended a modest extension of the scope for the Parliament to borrow both to even out short term revenue fluctuations and to enhance its capital budget through additional borrowing facilities with the UK Treasury (CSD 2009: Part 3).

Table 1: Recommendations of the Commission on Scottish Devolution

Estimated tax receipts in Scotland (2006-7) from the recommendations on	£ million
Income tax	4,650
Aggregates Levy	50
Landfill Tax	75
Stamp Duty Land Tax	555
Air Passenger Duty	94
Local Business Taxes (non-domestic rates)	1884
Local Property Tax (Council Tax)	1812
Total Devolved Tax Revenues	9120
% Total Devolved Budget	35%

Source: CSD (2009: 105).

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The CSD's recommendations on finance were almost all endorsed in a UK Government White Paper published in November 2009 (Scotland Office 2009). The only exception was the removal of Air Passenger Duty from the list of devolved tax powers. Its recommendations were also supported by the Liberal Democrats, though what it proposed was nearer to the minimum acceptable to them (and rather less than the Steel Commission had proposed in 2006). The Conservatives at Westminster were broadly supportive but unwilling to endorse the recommendations on finance, though they did commit to revisiting the issue if in government following the UK election in 2010. With the Labour Government under Gordon Brown refusing to move to legislation prior to the UK election it is unclear what, if anything, will come of the CSD's recommendations. Much will depend on the party-political configuration of the UK Parliament which at the time of writing (March 2010) appeared uncertain.

THE NATIONAL CONVERSATION

Just as uncertain is the trajectory of the SNP's policies on the constitutional status of Scotland in general and its fiscal arrangements in particular. Shortly after taking office the SNP published a White Paper, *Choosing Scotland's Future* (Scottish Executive 2007). This set out two broad options – more devolution within the UK and Scottish independence – and launched a consultation process, the 'National Conversation' to explore views on those options. The 2007 White Paper said relatively little about fiscal autonomy, though it did later produce papers on both borrowing powers and fiscal autonomy as part of the National Conversation (also submitting these as evidence to the CSD) (Scottish Government 2009a; 2009b).

These papers reflected a more general nuancing of the Scottish Government's position, which dismissed others' approaches to further-reaching devolution – such as the CSD's thinking – as insufficient. Instead the Scottish Government developed a terminology of 'devolution-max' as a feasible and desirable option alongside its goal of independence. This maximalist position was also reflected in its positions on fiscal autonomy, which went significantly further than the

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CSD. For example, its paper on borrowing argued for scope to borrow also for purposes of counter-cyclical economic management, not just to even out revenue fluctuations and enhance capital spending, and to borrow on the capital markets rather than accessing (and requiring the approval of) the UK Treasury (Scottish Government 2009b). Similarly the National Conversation paper on *Fiscal Autonomy for Scotland,* while insisting that independence is the preferred option, also makes a case 'short of independence' for the advantages of 'devolution max'.

'Devolution max' would make the Scottish Parliament 'responsible for raising, collecting and administering all (or the vast majority of) revenues in Scotland and the vast majority of spending for Scotland' (Scottish Government 2009a: 29). Any UK Government services delivered in Scotland would be compensated by a payment from Edinburgh to London. The model is broadly that of the Basque Country, and the paper recognises – as in the Basque Country – that fiscal autonomy 'max' would be hedged both by EU rules, agreements on a 'degree of harmonisation' agreed with the UK Government, and the wide role of the UK government in regulating the UK economy.

The option of devolution max – rechristened 'full devolution' – was taken forward in the Scottish Government White Paper *Your Scotland, Your Voice* published in 2009 (a few days after the UK Government's White Paper on the CSD recommendations). The White Paper (Scottish Government 2009c) also set out the intention to propose a bill to the Scottish Parliament to hold a referendum on a number of constitutional options, including the status quo, independence and 'full devolution'. In the end that bill was not introduced to the Parliament as planned, with the issue effectively put on hold – as with the CSD recommendations – until the outcome of the 2010 UK election was clear. The concluding section below sets out some of the scenarios that might follow that election.

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Excursus: Energy and Autonomy

First though, there is an additional contextual point to make about the commitment of the SNP to maximising fiscal autonomy. It might at first sight seem a significant risk to move away from a situation where Scotland is resourced by the UK taxpayer to spend 115% of the UK average to one of extensive or full reliance on resources generated in Scotland. That risk is mitigated by Scotland's energy resources. Exceptionally within the UK the Scottish Government produces annual estimates of both expenditures and revenues in Scotland (including spending by both the UK and Scottish Governments in Scotland and all revenues territorially attributable to Scotland). Though necessarily estimates –no data are collected on territorial revenues, and in some fields there is no precise data on spending by territory – these figures are generally regarded as credible. These estimates now include revenues from North Sea oil and gas extraction, most of which is extracted from Scottish waters, and none of which is currently attributed to Scotland. Table 2 shows that excluding oil and gas revenues Scotland has a persistent and large current account public sector deficit, but also that if oil and gas is included the deficit is much reduced and, if oil and gas prices are high as they were in the mid-2000s, eliminated altogether.

Table 2: Government Expenditures and Revenues in Scotland

Current budget balance	2003-4 %GDP	2004-5 %GDP	2005-6 %GDP	2006-7 %GDP	2007-8 %GDP
Excluding North Sea revenue	-7.9	-7.1	-6.8	-6.1	-6.3
Including North Sea revenue	-3.5	-2.3	0.8	0.9	0.2

Source: Scottish Government 2009d: 23.

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Clearly this is a temporary situation. 'Peak oil' in the North Sea has been reached and revenues can be predicted to decline in the coming decades. But at the same time Scotland – by virtue of its physical environment – is set to become a major producer of renewable energy from wind, wave and tidal sources. It is likely that energy revenues generated in Scotland will remain high, limiting the risk of a move away from a UK block grant towards a reliance on own resources.

WHAT HAPPENS NEXT?

The timing and scope of any move in Scotland towards fuller fiscal autonomy depends on the outcome of the 2010 UK election. For a long time it appeared that the Conservatives were heading for a clear victory. But from late 2009 their lead appeared to narrow in opinion polls, with a 'hung' parliament – that is with no single-party majority – the most likely outcome, with the Conservatives most likely as largest party. A Labour victory appears very unlikely, though it is possible that Labour could emerge as the biggest party.

Amid this uncertainty, though, some of the parameters surrounding future developments seem clear. In particular there now exists across the political spectrum agreement that there should be some degree of additional fiscal autonomy in Scotland. The CSD established a benchmark which is likely to be the starting point for future thinking among the unionist parties. The motivation for advocating fiscal autonomy (and the scope of autonomy envisaged) is very different from that of the SNP, but the direction of change, away from the status quo, is clear.

Moreover, what the debates on territorial financial arrangements around the UK have shown is that they are self-contained and territory-specific. The Welsh focus on need, Northern Ireland's side-payments and the Scottish debate on fiscal autonomy are each responses to particular territorial circumstances and do not appear easily amenable to a UK-wide approach to reform. The likelihood is for new forms of asymmetry to be introduced on a case by case basis through discrete sets of interactions between the different devolved and the UK political arenas.

So whatever the outcome of the UK election we are likely to see the evolution of a Scotland-specific debate on reforms in the direction of more fiscal autonomy. There are two scenarios in which this debate could open up quickly. The first is that of a hung parliament. Depending on the parliamentary arithmetic this could give 'territorial' parties – the SNP, its equivalent Plaid Cymru in Wales and the parties in Northern Ireland – scope to advance their objectives, including fiscal autonomy in Scotland, in return for supporting a UK minority government. The second is that of a Conservative victory. If the Conservatives do win, it is not likely they will improve much on their current showing in Scotland of just one UK Parliament seat. They may face in such a situation distracting claims that they lack legitimacy as a governing party in Scotland. One way of dealing with this would be to reach an arrangement with the SNP in Scotland, perhaps including some measure of fiscal autonomy and/or additional powers for the Scottish Parliament, perhaps balanced by a future reduction in the number of Scottish seats at Westminster (in which Labour, the main competitor at Westminster, is the dominant force).

The evident logic to such a Conservative-SNP accommodation could of course founder either on parliamentary arithmetic or even residual antipathies rooted in the 1979-1997 Conservative governments under Margaret Thatcher and John Major. But what remains clear nonetheless is that the arrangements for financing devolution are far from a stable equilibrium.

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