

Intergovernmental politics and climate change: Scotland, UK, EU

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This paper examines the dynamics of intergovernmental relations in an area of profound policy interdependence: the politics of climate change. The need to address and respond to climate change is now a major focus of governmental attention, and clearly transcends the constitutional distribution of powers between central, regional and local governments. Moreover, the urgency and scope of climate change not only invites but requires concerted action among a multitude of actors, at different levels of governance, each with different powers, priorities and resources. In this paper we focus specifically on the Scottish government's climate change policy within this multilevel, policy interdependent context. We ask how intergovernmental relations between Scotland, the UK and the European Union (EU) constrain but also enhance the Scottish government's ability to develop an effective and autonomous climate change policy.

The paper is divided into four sections. We begin by outlining the unique multilevel and substantive policy context in which Scotland's climate change policy has developed. We then provide a brief overview of the policy to date. The core section of the paper applies a framework for analysing the effects of this multilevel policy interdependence on the capacity of one regional actor – the Scottish government – to pursue its objectives in the arena of climate change policy. This framework will identify the constitutional, fiscal, informational and political opportunities and constraints faced by the Scottish government in policy development and implementation. Our preliminary analysis suggests that the Scottish government's attempt to overcome constraints – especially political and constitutional – has led to a more autonomous and ambitious policy. But that policy is yet to be realised and may in any case result in a decrease in the intergovernmental cooperation required to meet climate change challenges.

I. Climate change: The unique constitutional, multilevel context

The policy fields implicated in the politics of climate change are many and varied. They include some which are primarily reserved to central government under the UK's constitutional division of powers (energy, fiscal policy, relations with the EU and other states), others that are mostly devolved to the regional level (environment, transport, sustainable development, housing, waste), while responsibility for the implementation of most of the latter policies rests primarily with local government. Meanwhile, setting overall strategies and targets to alleviate the problems of climate change typically takes place at the international or European level, where national governments must speak with one voice, or allow the EU to speak on their behalf in international forums. Thus, in the UK as elsewhere, establishing and delivering a coherent programme of action to tackle climate change requires cooperation between governments and stakeholders at the local, regional, national, European and global levels. Once that programme has been agreed, the delivery and implementation of international obligations depends upon cooperation between layers of government within the state to design the necessary regulatory framework and to monitor compliance (Scheberle, 2004; Byrne, *et al.*, 2007; Rabe, 2007). This multi-level and inter-dependent aspect of climate change policy necessitates intergovernmental co-ordination not just between national governments but also between different levels of government within the state.

This paper focuses on one instance of this intergovernmental relationship, and its effects climate change policy in Scotland. The term ‘intergovernmental relations’ (IGR) is usually applied to relations within sovereign states to capture ‘the working connections that tie central governments to those constituent units that enjoy measures of independent and inter-dependent political power, governmental control and decision-making’ (Agranoff, 2004: 26). We expand it here to include the European Union, which incorporates an increasingly important higher level of governance. Within the EU, where policy development in a broad array of fields, including climate change policy, increasingly involves a supranational dimension beyond the nation-state, regional governments may seek either an autonomous influence in Brussels, or they may seek to utilize the intra-state intergovernmental framework to ensure regional interests are considered in EU policy-making. The latter has been the more common and effective practice in the UK and, indeed, the UK’s relations with the EU remain one of the few areas where intra-state intergovernmental relations have assumed an institutionalized form. That institutionalization has provided Scottish governments with an opportunity to ensure Scottish interests are taken into account in formulating the UK government’s EU policy and negotiating lines (Bulmer, *et al.*, 2002; 2006). However, since the 2007 election of new Scottish government led by the Scottish National Party (SNP), relations between Scotland and Westminster have become more complex. We keep this shift in mind while analyzing Scotland’s climate change policy development in an IGR context.

II. Overview: Scotland’s climate change policy to date

This section maps out the Scottish government’s growing engagement with climate change policy, and illustrates how that policy is embedded in UK and EU policy frameworks. Concerted government action and explicit commitments on climate change policy are relatively recent. The government’s official efforts to combat (mitigate and, latterly, adapt to) climate change is most directly expressed in several key programmes, most notably Scotland’s Climate Change programme (*Changing Our Ways*, 2006) and its draft *Scottish Climate Change Bill* which was publicly launched in January 2008, subject to public consultation in early 2008 (Scottish Government 2008d), and due to be introduced in the Scottish Parliament in December 2008.

The 2006 programme *Changing Our Ways* (Scottish Government 2006) outlined broad strategic objectives and aims, including the importance of awareness building and mainstreaming climate change thinking into other policy areas. But it included few concrete proposals and was widely criticised as ‘long on aspiration but short on quantifiable targets’ (WWF 2005: 3). It did, however, serve as an important precursor for a formal Scottish climate change bill. The government’s *Scottish Climate Change Bill* (Scottish Government 2008d) is wider-ranging, more precise and more ambitious than the preceding programme. It is intended to provide a legislative framework for activities of government, the private sector and individuals. Like the programme preceding it, the Bill clearly recognises the urgency of the climate change challenge; it explicitly acknowledges that climate change is ‘one of the most serious threats facing Scotland and

the world' (Scottish Government 2008c). The Bill covers a vast array of policies, and introduces specific targets as well as legislation to achieve them. That legislation covers policy areas devolved to Scotland only, but these are many, including forestry and agriculture, waste and resource efficiency.

Perhaps its most notable (or certainly most remarked upon) feature is the Bill's ambitious targets in carbon emission reductions and increase in renewable sources of energy. It sets a statutory target for Scotland to reduce its carbon emissions by 80% by 2050, and instructs the government to develop mechanisms to ensure sustained progress is made. (By comparison, the UK's reduction goal is 60% by 2050 and 26-32% by 2020; the EU's is 20% by 2020). These reductions are to be made primarily by a dramatic increase in renewable sources of energy. The Bill stipulates that 50% of electricity generated in Scotland should be met from renewable sources (it currently stands at 18%). Finally, the Bill proposes a requirement that ministers be held to account in the event of failure to meet emissions reductions, and it requires annual reporting to Parliament to ensure this accountability.

The Scottish government's climate change policy reflects ambitious aims, but it also reflects the multilevel nature of climate change. First, the Scottish government's climate change bill is firmly, if not always comfortably (see below), embedded in the UK's parallel climate change bill, introduced in 2007, agreed by Commons and Lords in 2008 and expected to receive royal assent by the end of 2008. The UK bill features similar, if less ambitious targets, establishes an independent UK-wide committee on climate change and establishes five-year carbon budgets which set binding limits on carbon dioxide across the UK (see UK Government 2007). The UK bill both recognizes the place of devolved regions, and is itself embedded in wider EU targets and aims. In terms of the former, the UK bill 'provides a framework for shared action and has been drafted in terms which recognise the role of the Scottish Government as a partner in the pursuit of the UK emissions reduction target' (Scottish Government 2007b). That is, the Scottish Climate Change Bill described above will put in place a statutory framework which is *additional* to the framework set by the UK government. It will introduce distinctive Scottish targets and relevant devolved policy measures requiring primary legislation.

A supranational dimension is also apparent. Both the UK and Scottish bills must fit with wider EU policy and targets. The EU climate change strategy is laid out in an ambitious EU energy and climate change programme agreed in early 2008, and featuring EU-wide targets of 20% reduction of carbon emissions by 2020. Under that EU-wide target different member states must meet individual targets, some of which are stricter than others. For the UK they include, *inter alia*, a further reduction (of 16%) in UK greenhouse gas emissions from several sectors; agreement that 15percent of the energy consumed in the UK would come from renewable sources by 2020; and agreement that 10% of road transport fuels come from renewable sources (for fuller elaboration, see UK Government 2007). Thus, the UK government has more ambitious targets than those set by the EU, and the Scottish government has set more ambitious targets than its UK counterpart.

A key instrument in meeting those targets is the EU's Emissions Trading Scheme (ETS), the world's largest multi-country, multi-sector greenhouse gas emission trading scheme. Launched in 2005, the scheme covers thousands of energy-intensive plants in the EU. Industries implicated include power generation, iron and steel, glass and cement but not (yet) aviation or shipping. Overall, the ETS covers about 40% of the EU's total carbon dioxide emissions (European Commission 2008). Under the scheme, polluters are able to buy and sell permits that allow them to emit CO₂ into the atmosphere.¹ Implementation of ETS is a devolved matter. But because the allocation of national allowances are UK-wide, Scotland must work within a single approach operating across the UK. The Scottish government's own policy is deeply implicated by the ETS. A key component of the Bill's consultation was the thorny issue of the EU's trading scheme and, particularly, how to impose Scottish targets that would not harm Scottish industry in relation to industries located elsewhere. To illustrate, the Government's guidance to the Bill's public consultation made clear the concern that should the Scottish government set reduction targets which were stricter than those already imposed by EU's ETS, the result may be 'industry moving out of Scotland' (Scottish Government 2008d, see especially 5.36). In sum, Scottish government's policy reflects its ambition to play leading role, but it also clearly reflects the constraints of Scotland's embeddedness within the UK's and EU's policy and constitutional framework. The next section assesses how this embeddedness has affected policy autonomy in Scotland.

III. Assessing Scotland's Role : Scotland-UK-EU

Our paper seeks to assess the capacity of the Scottish government to pursue an autonomous climate change policy in light of the intergovernmental constraints and opportunities. But Scottish-UK (and certainly Scottish-UK-EU) relations are not well captured by traditional IGR or federalism approaches. Indeed, when EU-UK-Scottish IGR are approached through the prism of classic comparative federalism, the vulnerability of the Scottish devolution settlement becomes immediately apparent: devolution is highly asymmetric and affects less than 15% of the population; the Scottish government lacks a strongly institutionalized right to participate in central government decision-making, while the UK government retains control over important mechanisms to potentially curtail Scottish autonomy; and the Scottish government has no guaranteed right to participate in EU decision-making forums either within the member-state or in Brussels. Informality and a reliance on goodwill have thus far been the hallmarks of Scottish-UK intergovernmental relations (HL Committee on the Constitution, 2002; Horgan, 2004; Trench, 2007). As a result, the centre potentially sets and supervises the boundaries within which the Scottish government can operate autonomously.

This constitutional framework profoundly shapes Scottish climate change policies. But constitutional power is not the same as political or policy power, and a focus on constitutional arrangements alone misses important political dynamics in Scotland's

¹ Firms exceeding their individual limit are able to buy unused permits from firms emitting less. Those who exceed their limit and are unable to buy spare permits are fined for every excess ton of carbon.

climate change policy development, especially with respect to the constraints and opportunities it faces. For a more nuanced view we thus draw upon and adapt Rhodes' classification of power dependence² (Rhodes, 1999; Trench, 2007; Swenden and McEwen, 2008) to assess the extent to which the Scottish government is free to pursue autonomous policy preferences, and with what implications. Although primarily based on 'observable' criteria of power and therefore perhaps less suitable to express the more 'hidden face' of power (Lukes, 2005), the model nonetheless provides a useful heuristic tool to assess the opportunities and constraints faced by the Scottish government. It is valuable particularly because it focuses on several different resource relationships (not just constitutional) underpinning intergovernmental interaction. In this section we highlight four: constitutional/legal, fiscal, informational and political.

A. Constitutional resources

Constitutional resources are the most obvious source of power and autonomy to governments at different levels. Adapted to the context of Scottish devolution, these resources can be defined as the 'mandatory and discretionary powers' (Rhodes, 1999: 81) allocated between the UK and Scottish governments. At first glance, devolution to Scotland appeared to start from a relatively straightforward dual blueprint: the Scotland Act (1998) lists reserved areas in which the UK government retains legislative and executive powers; by implication residual powers are transferred to the Scottish Parliament and government. However, in today's complex environment, policies (especially those implicated in climate change) cannot be broken down into neatly contained compartments and there is a large degree of interdependence. For example, energy policy is reserved to the UK level while energy efficiency, house-building and renewables fall within the jurisdiction of the Scottish government. Relations with the EU, where many climate change targets are set, remain the preserve of central government, with no constitutional guarantees that the Scottish government will be represented. The degree of interdependence between central and regional government in this and other fields has necessitated the development of formal and informal mechanisms of intergovernmental co-operation.

The Scotland Act did not provide detailed guidance on how to streamline and institutionalize intergovernmental coordination, manage policy interdependencies or resolve intergovernmental dispute.³ In the absence of formal guidance, many of the pre-devolution mechanisms that had previously facilitated horizontal coordination between the territorial offices and other Whitehall departments were marginally adjusted to coordinate vertical interactions between the devolved administrations and UK government departments (Poirier, 2001). For example, civil servants working for the Scottish Executive remained part of a uniform civil service structure. As such, they

² Rhodes (1999) has developed a full 'power resource model', but we draw here only from his classification scheme.

³ It did, however, include several informal provisions (such as the Memorandum of Understanding and the Concordats) intended to guide and oversee intergovernmental interaction.

contributed to ‘oiling’ and ‘gluing’ the fabric of IGR (Parry 2004). IGR post-devolution was to be informal, facilitated by positive, cooperative communication between civil servants on a day-to-day basis.

Similarly, bureaucratic relations between Scotland-UK-EU underwent few structural changes. A Scottish Government EU office was established in Brussels, staffed by officials accountable to the Scottish government. But the SGEUO remains part of the UK’s permanent representation in Brussels (UKREP); it has no formal powers to present or pursue a Scottish position at odds with UKREP’s stance. The two work closely together, with SGEUP described a ‘part of the UKREP family’ (see <http://www.ukrep.be/scotland.html>).

This weak institutionalization of IGR, especially within the UK, is highly unusual when considered alongside more formal co-ordination arrangements in other multi-level systems (Bolleyer, 2006). It is particularly vulnerable in an era of party political incongruence, where IGR are conducted between opposing governing parties, as in the case currently with a Scottish government led by the Scottish Nationalist Party and a Labour-led UK government.⁴ IGR based on informal understandings and cooperation rather than clear rules may make it more difficult for the Scottish government to exert influence in areas of policy inter-dependence like climate change. Certainly, the Scottish government’s ‘Action Plan for Europe’ bemoans the current structure because it has led to occasions when

the UK Government has failed in its duty to involve the Scottish Government in EU policy-making despite Scotland’s policy interests or has chosen not to incorporate Scottish views into the UK negotiating line. Such failures highlight the fact that the systems and structures... to support the devolved administrations in the UK are either failing or are not being properly executed in this new political environment of devolved government in the UK (Scottish Government 2008a)

Clearly, in this regard, the UK government retains a superior constitutional position vis-à-vis the devolved entities. Devolution is not identical to federalism. Devolution leaves parliamentary sovereignty intact. The UK lacks a supreme, codified constitution that could entrench the legislative authority of the Scottish Parliament, and the 1998 Scotland Act granting devolution to Scotland is a UK parliamentary act which - in theory at least - Westminster could amend at its own discretion. But it is difficult to envisage a scenario in which the powers of the Scottish Parliament would be seriously challenged or overturned by the UK government or Westminster Parliament. By constitutional convention⁵, the

⁴ The SNP government has repeatedly called upon the UK government to re-establish the formal processes of IGR, especially the Joint Ministerial Committee (JMC) designed to allow direct communication between ministers from devolved government and Whitehall. A JMC (Europe) exists to help iron out differences on EU-related policy, but the current Scottish government has questioned its effectiveness. The Secretary of State for Wales, Paul Murphy, has been leading an initiative to set up a JMC (domestic) to formalize intergovernmental co-ordination.

⁵ Known as the Sewel convention it was established in the Memorandum of Understanding between the UK government and the devolved administrations.

UK government and parliament have undertaken not to exercise legislative power in devolved areas of competence, or to alter the range of competences within the current devolution settlement, without the explicit agreement of the Scottish Parliament (UK Government Poirier, 2001). This complex mix of formal rules and informal rules shapes both policy development and implementation

Policy development

In practice, the Scottish Parliament and, hence, the Scottish government, enjoys significant control over a range of domestic legislative powers which might be deployed to address and mitigate climate change, including in areas of environmental protection, renewable energy, transport, housing, land-use and planning. Interpreted broadly by the Scottish government, these constitutional resources provide opportunities for policy innovation and experimentation to occur at the regional level, as has been evident in other multi-level states, especially the United States (Byrne, et al, 2007; Rabe 2007). For instance, Winskel (2006) notes how the Scottish Parliament and government have interpreted powers widely enough to encourage the development of a distinctive industry in renewable energy technologies, especially marine energy. More recently, the 2008 announcement by the Scottish government of a new ‘Saltire prize’ for ‘cutting edge renewable technology’ is an expression of its constitutional power to encourage policy innovation, as well as its keen desire to do so (Scottish Government 2008i).

Of course, the energy sector also illustrates the limits to Scottish policy autonomy. Most areas of energy policy are reserved to the UK government under the devolution settlement, including oil, gas and coal production, nuclear energy and the supply of electricity, as well as aspects of road and rail, marine and air transport. These reserved powers place real constraints upon the autonomy of the Scottish government to act within some of its areas of devolved competence. It lacks, for instance, any direct control over energy regulation, including regulation of energy sourced in Scotland. Since its election in May 2007, the SNP government has been pushing at the boundaries of the devolved powers. Its White Paper on Scotland’s constitutional future argued that a transfer of powers from the center to the devolved administration over energy policy and regulation, and enhanced powers over environmental, marine and transport regulation, were necessary to permit the development of a coherent ‘green’ policy in Scotland (Scottish Government, 2007a: 14-15).⁶ It has also begun negotiations with the Norwegian government to build a new electricity connector between Norway and Scotland, but according to recent reports, the UK Department for Business, Enterprise and Regulatory Reform (BERR) has sought to prevent these negotiations on the basis, according to a departmental official, that ‘the generation, transmission, distribution and supply of electricity are reserved matters under the Scotland Act 1998, as are international

⁶ The White Paper has been commonly misconstrued as a ‘white paper on independence’. Although it included a key chapter making the case for independence and a draft bill for an independence referendum, a substantial proportion of the document also included proposals for how Scottish autonomy might be strengthened within the UK through the transfer of additional powers from Westminster to the Scottish Parliament.

relations' and that 'it is for the UK Government to take any decisions and deal with other countries in relation to those matters' (*Scotland on Sunday*, 17 August 2008).

But even Scotland's limited constitutional policymaking powers include important avenues for exercising autonomy. The Scottish government, especially since the 2007 election, has interpreted its powers broadly in an attempt to exert 'Scottish' policy. For instance, its control of planning law includes powers to grant consent to construct, extend or operate electricity generating stations. The SNP government has used that power to make it clear that it would prevent any new nuclear power stations being built on Scottish soil. They have in effect staked out an important Scottish non-nuclear policy at odds with the UK Labour government's growing willingness to embrace nuclear power as a means of lowering carbon emissions.

Policy implementation

Constitutional/legal powers also include central government's authority to promote uniform standards and ensure compliance among diverse actors and institutions under its jurisdiction. In the area of climate change, these powers are most evident in the UK government's authority to promote uniform international and EU climate change targets agreed by the UK. The UK government retains overall responsibility for both Kyoto climate change targets and EU targets agreed in early 2008. But responsibility for *implementing* international obligations which affect devolved competences lies with the devolved administrations, with the latter expected to incur any penalties that may result from non-compliance. According to the UK government's climate change bill, this stipulation is 'designed to ensure that all parts of the UK work in partnership and make an equitable contribution to the delivery of the UK's target' (UK Government 2007). That partnership has been underlined since devolution in several concordats (or agreements) between individual Whitehall departments and the Scottish Executive, including several which involve policy fields relating to climate change. These include, for example, the Concordat between the Scottish Executive and the Department for Trade and Industry (now BERR), which detailed the principles for intergovernmental co-operation on energy matters (among other areas), and Concordats between the Scottish Executive and the Department for Transport and Department for Environment, Food and Rural Affairs (DEFRA). All have been regularly updated since the first year of devolution.

Thus, responsibility for reaching UK agreed targets relevant to devolved policies lie squarely with the Scottish government. It has the 'power' to act as an agent of smooth implementation or as an obstacle to progress. But the Scottish government must work closely with UK authorities and cannot bypass or ignore UK-wide efforts. It cannot negotiate with other international (or EU) actors its own targets or how they should be met. Moreover, attempts to obstruct implementation can be met with penalties. Faced with these constitutional constraints, the Scottish government has chosen not to shirk UK targets on climate change, but rather to surpass them. As discussed below, exerting autonomy has taken the form of setting higher, more ambitious climate change targets.

This section has covered several constitutional or legal power resources and found them to be complex indicators of Scottish autonomy. They both constrain and empower the

Scottish government and its ability to develop and implement policies. Alone, constitutional and legal powers don't reveal the full story. Rather, how they interact with other sources of power - financial, informational and political - helps determine the extent and shape of the Scottish government's autonomous role in climate change policy. We explore these other resources below.

B. Financial resources

Financial resources are a second important power resource of devolution and thus of intergovernmental climate change politics. We can distinguish here between the autonomy to raise money and the right to freely spend money within the allocated areas of competence. The Scottish government is rather unusual among regional governments in Western Europe in that it lacks fiscal autonomy (apart from the capacity to vary the basic rate of income tax by 3 pence in the pound) but enjoys a high degree of spending autonomy. The allocation of UK tax revenue to the devolved territories is via a block grant, the amount of which is determined by a formula (the Barnett formula) that predates devolution by more than twenty years.⁷ Under that formula, changes in the size of the Scottish block grant are almost entirely dependent on changes with regard to UK expenditure in England in those fields which have been devolved. This arrangement severely curtails the fiscal autonomy enjoyed by the Scottish government, constraining in particular its capacity for investment in research and infrastructure on climate change policies. Furthermore, the Scottish Government is not entitled to borrow money on the market to offset any substantial cut in the size of the block grant or to finance capital investment.

These very tight constraints on revenue-raising capacity have been contrasted to the very substantial – and equally unusual in a comparative context - autonomy enjoyed by the Scottish administration over how its budget should be allocated. In its 2008 research budget allocation, for instance, the Scottish government has chosen to promote climate change as a priority research area in the government's five year scientific programme, on which it would 'like to spend as much £60 million per year' (Scottish Government 2008e). But that funding is dependent on UK expenditure and there is growing unease within England at what is perceived to be an over-generous financial settlement for Scotland, made more acute by party-political disagreement between the UK Labour government and the SNP government in Holyrood.⁸ In any event, the generous financial settlements which marked the first eight years of devolution have now been overtaken by a harsher fiscal climate throughout UK government, with knock-on effects for the allocation of resources to Scotland. The new Scottish government must therefore operate

⁷ This so-called 'Barnett formula' makes changes in resources to Scotland dependent on changes agreed between the Treasury and departments that operate in England in the value of 'comparable programmes' (Bell and Christie, 2007: 73-74).

⁸ An assessment of the funding mechanisms of devolution are a central concern of the ongoing review of devolution conducted by the Scottish Constitutional Commission, with some recommendation for enhanced fiscal autonomy a likely outcome.

within a much tighter financial environment than its predecessors, exposing the limits of its spending autonomy.

That revenue constraint has direct implications for climate change policy, as illustrated in difficulties facing renewable energy projects in Scotland's island periphery – Orkney, Western Isles and Shetland. These windy outposts feature several wind and marine (wave and tide) renewable energy projects and are seen as key in meeting Scotland's and UK's renewable energy targets. Yet, the UK transmission charging regime – the cost charged to transport electricity from plant to the National Grid - is based on location, with the highest rate charged to those furthest from 'end user'.⁹ That regime can be crippling for plants far removed from urban centres. When, in August 2008, the UK government announced that plans for a cap on these charges had been shelved, the Scottish government's own spending or revenue-raising powers were insufficient to allow it to take any remedial action. It did, however, lodge a vociferous protest with the UK government (see *Scotsman* 22 Aug 2008). Moreover it can seek redress at higher levels. In this case, campaigners made up of government and business actors have publically noted that the current UK charge regime may violate a EU directive 'that bans governments from using charges that discriminate against renewable energy produced in peripheral regions' (*ibid.* p4). We see here how limited financial powers make Scottish policy highly dependent on decisions made in London and, if campaigners have their way, in Brussels.

C. Informational Resources

We move now from 'hard resources' (money and constitutional power) to less tangible but arguable equally important resources. Informational resources refer to the *information* and *expertise* possessed by actors in the policy-making process (Rhodes 1999: 81). In the context of devolution, this can be understood as the presence of professional groups in devolved and UK policy areas, and in particular the role of the civil service in serving and mediating the intergovernmental relationship. Such informational resources can help political actors pursue their policy objectives, but experts, stakeholders and civil servants also pursue their own goals. In the context of climate change policy, we find the Scottish government's ability to wield informational resources has both increased and decreased since devolution. It has gained more independent expertise, but at a possible cost of reduced access to Whitehall expertise and strategic decision-making.

A key source of information and expertise is a government's own civil service. In this regard the Scottish government may seem to be in a weak position relative to the UK since there is no separate Scottish civil service. Civil servants within the Scottish Executive who serve the Scottish government remain part of a Britain-wide civil service (Northern Ireland is exceptional by having an autonomous civil service corps). The career paths, criteria for recruitment, remuneration or pensions of civil servants are squarely determined at the UK level. On the other hand, civil servants working within the Scottish

⁹ The UK government shifted operational control of electricity transmission system from local power companies to the UK National Grid in 2005.

administration are accountable to Scottish government ministers, and many had worked previously for the Scottish Office (the territorial office of the UK government which administered domestic policies in Scotland in the pre-devolution era). Such experience has proven useful when seeking access to Whitehall on climate change matters that touch upon devolved interests, and a co-operative relationship between two levels has been the norm. Removed from party competition, cooperation between civil servants drawing up the UK and Scottish climate change programmes appears strong; both documents refer repeatedly to co-operation between UK and Scottish governments as critical. Links between civil servants in Edinburgh and London (DEFRA) have been close, and Scottish civil servants have taken credit for influencing certain aspects of the UK climate change bill, such as the Carbon Reduction Commitment (CRC) – a mandatory trading scheme applied to authorities in Scotland, Wales and England and designed to cut emissions from 2010.¹⁰ Thus, in certain respects a more autonomous Scottish government appears to be in a stronger position to wield influence in Whitehall.

However, if we move beyond an ability to shape specific and (usually) local policy, we find indications of a reduced capacity of Scottish civil servants to influence broader, strategic policy-making at the centre. That decline may in part be the (possibly) unintended effects of the move by the UK Labour government to reconfigure relations between Scotland and the rest of UK government. Part of the reconfiguration involved reducing the status of the post of Secretary of State for Scotland within the UK government, a function which the current office holder – and Defence Secretary – claims takes up only a day per week of his time (HCJC, 29 January 2008). Moreover, while that Scottish Secretary can attend weekly meetings of the UK cabinet and still maintain his insider briefs on some substantive policy issues implicated by climate change, the devolved administration has more generally lost access to core developments within Whitehall since devolution (Parry 2004: 53). For instance, secondments of Scottish civil servants to Whitehall are still possible, but *not* normally to the Cabinet Office, ‘No 10’ or the Treasury, i.e. the key Whitehall departments (Parry, 2004: 57). These are, of course, crucial access points for decisions relating to strategic climate change policy. Note, for instance, that the Stern Review (Stern 2006) – a report to HM Treasury which is arguably the *key* document shaping UK national climate policy, made no mention of Scotland, little of devolved powers and reflected little input from political representatives or civil servants north of the border.

Lack of access and influence becomes more acute as policy moves upwards to EU and international levels. Scottish representatives – even before the election of the Nationalist government - had voiced concern that Whitehall policies were not systematically tested for their effect on devolved policy areas. In September 2006, a leaked report by the Head of the Scottish Executive European Union Office (now SGEU) to the then First Minister, Jack McConnell, suggested that officials within the Executive felt that Scottish interests were being neglected by Whitehall and that opportunities to influence the decision-

¹⁰ The official document states that ‘DEFRA in fact agreed to amend proposals on how schools are to be included in the CRC following the intervention of the Scottish Government, making the scheme simpler and more efficient for local authorities to manage (Scottish Government, 2008k).

making process may have diminished since devolution, particularly in European affairs. The report noted a feeling among Scottish Executive officials

that the Executive has lost some of its “clout” within Whitehall following devolution. Not only is the relationship between the Executive and Whitehall viewed as unequal but the diminishing role of the Secretary of State for Scotland has meant that there is no longer a hard-hitting voice within Cabinet meetings speaking on behalf of Scottish interests (Aron, 2006).

For instance, although centrally implicated in the EU ETS (indeed, they are primary implementers of that scheme) the Scottish input into negotiations over the UK’s targets was minimal. Nor has there thus far been a direct Scottish government presence in EU Council meetings concerning climate change.

The Scottish government has tried to overcome that lack of access by gathering its own information, setting its own Scotland-specific targets (the ‘Scottish share’) or its own ETS-compatible strategy. To achieve this aim, it has strengthened its direct presence in Brussels, through Scotland Europa (a key hub of the Scottish-Brussels networking and intelligence gathering set up in the 1990s), and the post-devolution established Scottish Government EU office mentioned above. The SGEUO supports the EU-related work of the government, is accountable to the Scottish government and was established to help ‘increase Scotland’s influence’ (see Scottish Government 2008g). It can and does provide Scottish government with useful intelligence but, as noted above, it is part of UK-wide information and representation activities. Scotland Europa, as a more established body, and as a mix of public, private and voluntary groups, has more independence from UKREP. It is not answerable to the Scottish government and its main audiences are the business community and fund-seekers. But it can provide useful expertise for the Scottish government (especially on areas such as energy policy) that is tailored to Scottish needs distinct from the UK-wide interest.

At home, the Scottish government has worked very closely with businesses both to garner support and to gain useful information. Shortly after the election of the SNP government, a climate change ‘Business Delivery Group’ met to share ideas on how business can do more to help meet Scottish targets. Government has also encouraged a widening out of expertise, most notably through a consultation process on its proposed Scottish Climate Change bill. Running from January-April 2008, the consultation asked a range of questions core to the Bill, soliciting views on the desirability and feasibility of targets, inclusion of gases, sources of emission, scrutiny and implementation.¹¹ The Scottish government targeted four key groups of stakeholders for a sort of ‘pre-consultation consultation’: non-governmental organisations, business and industry, the public sector and the academic/research community. A key section (number 5) related to the EU’s emissions trading scheme and how the proposed climate change bill should approach it in a ‘Scottish-specific’ manner. It has also used its own experts (or those seconded) to compile a whole range of statistics relevant to climate change targets (Scottish Government 2008h). Finally, the government has looked outside Scotland for experts and

¹¹ The Scottish government has recently opened up a separate consultation on adaptation. See Scottish Government 2008b.

expertise. In addition to launching several collaborative research programmes, the government has sought to ‘bring together international expertise’ to put Scotland at the forefront of such developments such as carbon accounting and green energy (Scottish Government 2008j).

Paradoxically, however, this very ability to construct its own bill with its own statistical resources, ideas and strategies, may have weakened its involvement with – and access to – the UK legislation and strategy which, ultimately, sets and agrees binding targets. Thus, since devolution, in climate change as in other areas, enhanced regional autonomy may have gone hand in hand with a reduced scope for influencing central government policy. This is a reverse of what Midwinter, *et al.* described in the 1980s as a quid pro quo trade-off between Scottish autonomy and access to central government (Midwinter, *et al.*, 1991). Then, they inferred that access and influence, via the Scottish Office, came at the cost of political autonomy. Now, it seems that the devolution of political autonomy has incurred a loss of some access and influence at the centre.

D. Political resources:

Electoral and public legitimacy

According to Rhodes, political resources refer to the access to decision-making ‘bestowed upon elected representatives by political office’ and ‘the legitimacy deriving from the fact of election and the right to build public support’ (Rhodes, 1999: 80). Both the UK and Scottish governments derive their legitimacy in the first instance from direct elections. Power imbalances are again evident: representing all voters in UK-wide issues and approximately 85% of the voters in asymmetrically devolved issues arguably entrusts the UK government with a disproportionate amount of political resources. Yet, Labour’s historic reliance on Scottish votes, as well as the strong current presence of Scottish ministers among the most senior positions within the Cabinet, can help to ensure Scottish interests are considered in UK elections.

Moreover, it is in the arena of political resources that a regional government, which is constitutionally subordinate to central government, might best overcome some of these structural weaknesses in the process of intergovernmental bargaining. Political resources are invested in governments as a result of their electoral legitimacy. In spite of the current SNP Government’s minority status – it secured less than a third of the Scottish vote, won just one more seat than the Labour Party, and is some 18 seats short of an overall majority in parliament – it has positioned itself as representing the legitimate voice of Scotland within the UK, and sought to enhance the status of the administration to that of a national *government* rather than a devolved *executive* (Indeed it changed its name from the latter to the former in 2007.) The Scottish government has certainly adopted a new assertiveness in its approach to intergovernmental relations; the stance represents a deliberate departure from the strong emphasis on partnership and collegiality with the UK government by the previous administration. That exercise of political resources is manifest in several dimensions of climate change policy.

First, it can cultivate and capitalize on popular support within Scotland to bolster aspects of its climate change policy, especially those likely to generate intergovernmental tension. For example, the Scottish Social Attitudes Survey asked its survey respondents whether they agreed or disagreed with the statement: *Under no circumstances should any new nuclear power stations be built in Scotland*. Just over half agreed or strongly agreed, and less than 30% disagreed or strongly disagreed.¹² Thus, public opinion and public perception that it represents the legitimate voice of the people of Scotland can help the Scottish government make its case – say for a non-nuclear energy policy - in the intergovernmental arena.

Further, as mentioned above, the government launched one of its largest ever consultations on its Climate Change Bill (Scottish Government 2008d) and received an impressive response (indeed the second biggest response ever) from 21,000 individuals and hundreds of organizations. Many were sent as postcards or template as part of campaign by the Scottish branches of environmental groups such as Friends of the Earth, the WWF and the RSPB. The majority of respondents supported the Bill's proposed ambitious targets of slashing emissions by 80% by 2050. They also overwhelmingly opted for including all six greenhouse gases, and including emissions from international aviation and shipping in ETS. Businesses and farmer organizations were less enthusiastic with these proposals and voiced reservations about Scotland's ability to compete economically should it impose on itself a financial burden 'not faced by competitors in other countries' (*Scotsman*, 4 July 2008). But the overall consultation result made clear the public support for a robust Scottish policy.

Of course, like many public relations exercises, consultation results can be a double-edged tool in intergovernmental relations. First, the respondents' overwhelming support in favour of including aviation emissions in the Scottish government's targets made negotiations difficult for the government. On this matter, Scottish government does not want a separate 'Scottish solution' but rather a wider solution agreed at the UK or a higher level. Officials claim that if the Scottish government acts alone on emission inclusion, it runs the risk that its policies would not deliver emission reduction but 'simply shift emissions elsewhere' while damaging Scottish business interests (Government spokesman quoted in the *Scotsman*, 22 August 2008) . (To finesse the finding the Government manipulated results, reputedly counting thousands of cards pre-printed by WWF or FoE as 'one' FoE or 'one' WWF response and concluding therefore that a much smaller percentage of respondents called for aviation emission to be included. The transparent ploy threatened to backfire as it quickly became labeled by several organizations as an 'insult' to Scottish democracy.¹³

¹² Popular support for another potential climate change policy - congestion charging – was much less forthcoming and a proposed congestion charging scheme for Edinburgh was firmly trounced in a ballot in 2005.

¹³ Richard Dixon, head of WWF Scotland, quoted in the *Scotsman* 22 August 2008

The point is that public support for a strong autonomous *Scottish* climate change policy is a crucial political resource, but it is also fickle and unreliable. Wind energy provides another relevant illustration. Much of the Scottish government's case for leading an autonomous climate change policy rests on generating renewable energies as a way to reduce significant carbon emissions and help it meet the UK, EU and Kyoto targets. The Scottish government has repeatedly claimed that 'Scotland's enormous natural resources present an opportunity for global leadership in harnessing renewable energy' (Scottish Government 2008c) and it has set the ambitious target that 50% of its electricity demand should be met from renewables by 2020. Wind energy is obviously crucial to this goal, but wind farms are routinely subject to significant resistance, not least from local populations. For instance, in April 2008, a large land-based wind farm plan on the Isle of Lewis was rejected, not least because of local environmental concerns, especially 'significant adverse impact on wildlife and birds'. The justification for rejection in this case was strong¹⁴, but a farm would have meant enormous progress towards meeting Scotland's renewable energy targets and a move away from polluting fuels. Opposition to several wind farms elsewhere in Scotland illustrate that public support for a distinctive, ambitious Scottish climate change policy based on renewable energy may be often more robust in principle than in practice.

Leadership as political resource

The Scottish government has sought repeatedly to play a leadership role in climate change as a way both to assert its autonomy, and to strengthen its intergovernmental bargaining hand. Several expressions of leadership – policy, moral, commercial and global – are evident in relation to climate change.

First, the Scotland government has tried to assert its lead in policy innovation and research. Its ambitious international Saltire prize, mentioned above, will award a £10 million innovation prize to develop a green sustainable energy project of relevance to Scotland and has a stated aim of carrying 'the potential for Scotland to advance its own economy and energy independence while making a substantial contribution to the world's most pressing challenges' (Scottish Government 2008i). Similarly, in December 2007, the First Minister declared his intention to make Scotland a 'global centre for cutting edge research and development of clean, green energy' (Salmond, 2007) and later referred to his aim of making Scotland the 'green capital of Europe' (quoted in *The Times*, 21 July 2008) To that end, and in part a response to its disappointment that the UK Government chose to locate its Energy Technology Institute in Loughborough rather than Scotland (*Aberdeen Press and Journal*, 19 May 2008), the Scottish Government moved to reinforce Scotland's own claims to become a centre for green energy research and development. With support from the European Commission, the Scottish government and business consortium launched in 2008 the Scottish Green Energy Research Centre in Aberdeen which will 'promote, and disseminate throughout the EU and beyond, good practice and policy solutions relating to the development and implementation of

¹⁴ It included not only local environmental concerns but also doubts about its economic benefits to the wider community (the farm would be build on estates not public land) and its access to grid links. EU legislation (this time habitats and bird protection directives) was again invoked, initially by protesters opposed to the farm, and subsequently by the Scottish government in explaining their rejection decision.

renewables and low carbon technology’ (Scottish Government 2008f) . The launch highlighted Scotland’s European ties and connections (‘We can learn much from European countries, whether they be near neighbours or from further afield’), and it aims to link not with centres elsewhere in the UK but with other north Atlantic countries. The intention is to secure European funding and even become a European agency itself (*ibid.*)

The Scottish Government has also repeatedly sought to build a role as a ‘global leader’ in climate change policies, initiatives and ideas. Scotland was a founding member of the UN’s States and Regions Climate Alliance, which shares experiences and best practice with other regions and developing countries. In 2007, a Scottish Government representative attended the climate change Bali Summit and participated in side-events for politicians and senior officials of the States and Regions alliance, with the goal of further developing ‘effective regional action plans on climate change’ (see Climate Group 2008). The aim here was twofold, first to assert Scotland’s importance on the world stage, and second, to secure economic interests. ‘Being at the forefront of efforts to tackle climate change has the added benefit of bringing opportunities for Scottish businesses, developing and producing technology for use both here and abroad’ (Swinney 2007). Thus, in this and other endeavors (such as the green energy centre) the Scottish government has attempted to build its image as both a commercial and global leader.

Finally, the Scottish government also has sought to exert moral leadership in its climate change policy. Several Scottish government climate change documents invoke Scotland’s distinctive and proud past (particularly, its scientific and industrial inventions, discoveries and entrepreneurial spirit) which have ‘led the world’ but also contributed disproportionately to industrialization, energy use and increased carbon emissions. Thus, the government makes an explicit claim about the ‘moral imperative for Scotland to take action’ (Scottish Government 2008d, section 2.5). That claim is used as a way both to highlight Scottish distinctiveness, and to build support (within and outwith Scotland) for an autonomous Scottish policy.

IV. Conclusion

Any examination of intergovernmental relations needs to consider constitutional resources and asymmetries, and most scholarly attention has been given to this dimension. We have demonstrated the presence of considerable power asymmetries in the constitutional resources underpinning EU-UK-Scottish intergovernmental relations. Yet, our preliminary study suggests a focus primarily on the constitutional dimension is an inadequate means of understanding Scotland’s role in climate change policy.

The reasons are threefold. First, climate change is distinctively complex. It implicates a broad range of governance levels, but also a broad range of policy sectors, actors and interests. Constitutional relations remain important, but are inevitably muddled. Second, constitutional relations are themselves mixed, complex and seldom predictable. In climate change, the UK government holds an obviously dominant constitutional position, but not always and not consistently. Thus, and thirdly, our analysis suggests deployment

of other resources – fiscal, informational and political – are crucial in determining the opportunities and constraints faced by Scottish regional government in developing its own climate change policy. In the climate change field, these other resources can shape, compensate for, or even cancel out constitutional resources. For instance, financial constraints (say, the inability to subsidise energy projects or override transmission charging set by London) can undermine any constitutional power. Conversely, information and, especially, political resources, if wielded effectively, can compensate for a lack of constitutional and fiscal capacity.

Yet the exercise and flouting of other resources is not cost free. The Scottish government's assertion of political clout, in particular, has undermined (or threatens to undermine) longer-term co-operative relations between Scotland the UK and EU. Co-operation (in agreeing targets, energy sources and priorities, for example) might prove more productive in representing Scottish interests in the long run, not least because it is more likely to ensure Scottish access to strategic decision making at all levels, and is perhaps more likely to meet the thornier challenges of climate change. Aspirations to 'go beyond' the UK are fine indeed. But they remain for now just that - aspirations. In the very quarter the Scottish Climate Change Bill - with its ambitious targets and Scottish share - goes before parliament, official government statistics (Scottish Government 2008h) indicated a significant increase in traffic across Scotland (especially car use), and an even bigger jump in the amount of electricity generated from coal (undoubtedly one of the main contributors of Co2). If politically inspired aspirations lead to another missed target or promises unmet they might undermine the very political support so integral to combating (and adapting to) climate change.

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