

WALES, THE UNITED KINGDOM AND EUROPE

OCTOBER 2013



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WALES, THE UNITED KINGDOM AND EUROPE

A conference report written by Sarah Tanburn



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Acknowledgements

This report is based on presentations and discussions during two linked conferences that were organised in May 2013 by the British Academy and the Learned Society of Wales, under the overall banner, *Wales, the United Kingdom and Europe*. The first conference was held in Cardiff on 24 May and took as its theme, *Europeanising Devolution*; the theme of the second conference, held in London on 31 May, was *Welsh Devolution in Perspective*. The conferences were organised in association with Cardiff University. The Academy and the Society would like to thank colleagues at the University for their support. They are grateful, in particular, to Professor Alistair Cole FRHistS AcSS FRSA FLSW, of Cardiff's School of European Languages, Translation and Politics, who provided the academic inspiration for the conferences and who was the driving force behind their organisation. They would also like to thank all those who contributed to the two events, as speakers and as delegates, whose insightful views and comments are reflected in this report, together with Sarah Tanburn, the author of the report, and all those who have assisted in its production.

Foreword

From the Presidents of the British Academy and the Learned Society of Wales
17 July 2013

Reflecting the view that “devolution is a process, not an event”, during the period since the National Assembly for Wales was established in 1998, further powers have steadily been devolved to Wales, first, under the Government of Wales Act 2006 and then, in 2011, through the transfer to the Assembly of full legislative competence in the 20 areas that are devolved. The work of the independent Commission on Devolution in Wales (the Silk Commission, established in 2011) can be expected to result in still further devolution in the areas of financial and constitutional arrangements for Wales.

These developments are taking place within the broader context of debates and developments in the United Kingdom and in the European Union. In September 2014, the people of Scotland will be asked to vote on whether or not Scotland should be an independent country. The “English Question” is becoming an increasingly important feature of debate within the UK, and devolution and possible independence are also important issues for a number of other European countries. And, across Europe, including within the UK, debates on devolution and independence are taking place against a backdrop of questions of national identity, multi-level governance, euro-scepticism and euro-zone governance.

The development of Wales’s relationship with the United Kingdom is an important constitutional issue, which has far-reaching consequences for all UK citizens. With outstanding academics in the fields of constitutional law, politics and government, economics, international relations and history amongst our Fellowships, the British Academy and the Learned Society of Wales are well-placed

to offer first-class scholarly insight and academic expertise on this topic, and also to draw on expertise from other countries.

In 2013, the Academies convened two one-day conferences, the first held in Cardiff and the second in London. The conferences (which followed two successful events organised between the British Academy and the Royal Society of Edinburgh in 2012 on the subject of Scotland’s relationship with the UK) were attended by a range of academic and policy experts. They provided a platform for a frank and informed discussion of Wales and the United Kingdom, within the broader European context. This report is a record of the views expressed by the speakers and attendees at those events and it does not represent an established position of either the British Academy or the Learned Society of Wales.

The British Academy and The Learned Society of Wales are both independent organisations with no party-political agenda or positions. The purpose of this report is not to influence the devolution process in a particular way; the aim is instead to provide expert analysis and to encourage rich and informed debate on all aspects of an important topic.

As national Academies, both our organisations recognise the responsibility we have to ensure that academic expertise and an independent perspective are brought to bear on matters of public concern such as this. The conferences and the report represent only the beginning of our contribution to this area, and we will continue to play a role in forthcoming discussions of the United Kingdom’s constitutional future.

Professor Sir Adam Roberts KCMG PBA
President, British Academy

Sir John Cadogan CBE DSc FRSE FRSC MAE PLSW FRS
President, the Learned Society of Wales

Executive summary

Introduction

We live in extraordinary times for Wales. Unfolding devolution offers new opportunities to influence the future of the country while the prospects for the United Kingdom look more uncertain than at any time in the last three hundred years. The pace of change is breathtaking: until recently, few people were discussing either a separate Welsh legal jurisdiction, or the limiting impact of the conferred powers model on the National Assembly. Current events, not least in Scotland, lend urgency to the need to understand divergent public opinion across the United Kingdom, and for the people of Wales to express their will. Debate on these topics too often relies on emotional sound bites rather than strategy or evidence. Wales does not have so much a democratic deficit as a 'debate deficit' about its options and objectives.

In this context, the British Academy and the Learned Society of Wales in association with Cardiff University organised two one-day conferences in May 2013. Delegates discussed devolution and the position of Wales in two Unions: Europe and the UK. The partners aim to promote an inclusive and informed debate about the future of Wales, the United Kingdom and the European Union.

The conferences heard about pan-European research into the changing face of multi-level governance, and the impact of the fiscal crisis on devolution. Delegates discussed the appraisals of senior practitioners in the business of administering the European Union and the United Kingdom. Political leaders and regional advocates described their ambitions and at times disagreed about the best way forward for Wales. Speakers celebrated emotional and significant moments in the emerging

country's role such as the first time a Minister sitting under the United Kingdom flag addressed the European Parliament in Welsh.

The Welsh exploration cannot be considered in isolation. The Scottish Parliament has announced a referendum on that country's independence, to be held on 18 September 2014. The outcome will be significant for the other countries of the United Kingdom, and for the international relationships of the UK. The local elections of early May 2013 also saw a rise in the English vote for the UK Independence Party, prompting the UK Government to publish a bill proposing a referendum on membership of the European Union by the end of 2017. Current survey evidence suggests that a clear majority in Scotland would vote to remain in the EU. Evidence in Wales is more mixed but there can be no doubt that the Welsh electorate is less hostile to membership than that of England.¹

The increasing divergence within the UK and across the EU challenges Wales to determine whether and how it should shape its own approach in a wide range of policy fields. Meanwhile, attractive features of European engagement have been jeopardized by the economic and fiscal crises. The conferences placed Wales firmly within its European context and provided a substantive review of the issues of fiscal autonomy and capacity at the sub-national level in Europe. They were informed by research led by academics at Cardiff University, which enabled a detailed examination of experience in comparator countries.

This report is a distillation of the contributions made at the conferences and aims to provide an accessible summary of the discussions. (Note that the presentations and discussions are summarised. Interested readers should

¹ This data can be found in 'Between a rock and a hard place' by Richard Wyn Jones, *Agenda*, journal of the Institute of Welsh Affairs, (Summer 2013). Scottish polling data is taken from Ipsos MORI (February 2013), www.ipsos-mori.com/Assets/Docs/Polls/scotland-attitudes-towards-EU-membership-2013-tables.pdf

approach the original speaker for the full text of their papers.) The conferences and this document are part of the national and trans-national discussion about how European society in the twenty-first century should be managed.

The Silk Commission was established in October 2011 by Welsh Secretary Cheryl Gillan to review the present financial and constitutional arrangements in Wales. The first part of the Commission's work looked at fiscal powers, and the second reviews the powers of the National Assembly for Wales.

The 'Troika' is vernacular for the 3-part commission that is charged with monitoring the Euro debt crisis. They are also responsible for making recommendations on policy to help solve the Euro debt crisis. The Troika is currently made up of the European Central Bank (ECB), the European Commission (EC), and the International Monetary Fund (IMF).

Wales: defining the future in two Unions

Wales – its people and its Government – is increasingly active in defining its own future. The recommendations of Part One of the Silk Commission, endorsed by the whole Assembly after extensive consultation, set out a path towards greater financial responsibility. Moves towards enhancing fiscal capacity come as a package, not as individual measures, and so individuals and parties in the debates need to look at the emerging picture of devolution as a whole. The under-performing Welsh economy must be a core priority.

There are real constraints: resources and fiscal capacity, political leadership and national capacity, the costs of change and honesty about the first ten years of devolution. The appetite for more devolution needs to be matched by delivery and transparency. A constructive debate will rely on better political communication both with the people of Wales and more broadly across the United Kingdom.

The future constitutional arrangements of the European Union, and the nations and territories within it, are potentially being transformed by the on-going banking, sovereign debt and euro crises, as well as by the uneven economic performance of EU member states. More broadly across the European Union, localities and regions are having to comply with restrictive new budgetary rules piloted by the EU. This new debate frames territories as saints and sinners, with the EU seeing non-compliant players as in some sense moral failures.

At a country level also, the demands of fiscal rectitude are straining the long-held tenets of financial equalisation and the transfer of resources from richer regions to poorer ones. Even in the co-operative federalism of Germany, the debts of regions such as Berlin are putting pressure on solidarity. Across the European Union, this conflict is intensifying. Within the UK, a much more centralised currency union, equalisation is also under threat.

Why should this matter to Wales? The UK is not a euro member-state, so why should the country be concerned about developments in continental Europe? Speakers highlighted the many different ways in which Europe matters for Wales. The European Union provides substantial resources for Wales through its regional funds, the Common Agricultural Policy and the Single European Market, securing precious jobs. The UK is a powerful member-state and, in key respects, Wales benefits from being part of this large entity.

Those benefits would be threatened in the event of Wales being forced to leave the EU, or at least significantly alter the terms of its relationship, in the wake of changing European policy of any future UK Government. The counterpart to Welsh solidarity within the UK must be participation in crucial choices for Wales. The determination of the UK's future constitutional relationship with the EU, whether or not ultimately the subject of a referendum, must also involve consultation and negotiation with the Governments of Wales and

What next for Wales in Europe?

Devolution takes place within the arenas of the European Union and the United Kingdom. Wales needs to be proactive in discussions about the developing role of the larger EU and both ambitious and competent in using the opportunities for sub-national regions within its institutions. The future of the UK as a whole is the subject of emotional debates: Wales must speak for its own distinctive interests and national character, and play a full role in a mature UK-wide discussion about what comes next.

Scotland. The Welsh Government has gained confidence over time and been emboldened to make a more resolute case in defence of Welsh European interests, which are not automatically aligned with those of the UK as a whole, whether in relation to the CAP, to structural funds or to social Europe.

What next for the United Kingdom?

Is the UK moving towards a new Union or some kind of federalism? The broad direction of travel is to looser ties, but with no agreement even on the nature of discussion about the constitutional settlement. There is, though, widespread unhappiness with the status quo, ranging from the campaigns for independence in Scotland to Sinn Fein's call for a poll on Northern Ireland's constitution. Alternatively, an independent Scotland could leave behind a rump UK which is more opposed to devolution than before.

The 'English question' is central to debates about the UK's future, for it is in England that national identity, euro-scepticism and a feeling of disenfranchisement are closely interwoven with dislike of multi-level governance. The surveys show different pictures in Wales, Scotland and Northern Ireland. Debates about changing constitutional arrangements need to recognise these differences; for example the history of Wales seems to have made its people much more comfortable with power-sharing – across parties, with London, within Europe – than the English.

The picture is further complicated by the interaction between the two Unions. Scotland's referendum has UK Government agreement and so some form of fast-track accession to the EU might be achieved. Challenges would arise around the terms of membership and the application of current UK opt-outs. Of course, if the rest of the UK then withdrew from the EU, Scotland might be forced to abandon any UK links which the Scottish National Party (SNP) presently proposes to retain, including sterling. The SNP is firmly in favour of remaining in the EU and part of the party's referendum platform is now the argument that the only way for Scotland to remain in Europe may be to vote for independence.

Given the particular ambitions of Wales and its potentially powerful relationship with pan-European resources and structures, this presents a major challenge. It is hard to see how Wales would prosper in a 'little Britain' outside

the EU. Now, more than ever, Wales needs to share and encourage confidence and pride across the Union, fostering an open, evidence-based and mature debate about the future.

Centralisation to post-sovereignty: what price independence?

Many complex situations and alliances may be envisaged within nations and between them even more so within the unique supra-national alliance of the European Union, but some are not politically or fiscally feasible in the foreseeable future.

Currency union is a major pressure for convergence, both in the Eurozone and within the UK. Constraints have tightened in the banking crisis, but many of those pressures existed before 2008. The financial situation has not prevented increasing divergence in a wide range of policy fields, from environmental protection to urban renewal. This is obvious at sub-national level: within Belgium, for example, there is significant divergence on issues such as regulation of genetically modified crops, while the UK is seeing growing variation in education practices. Some regional governments are even moving away from devolution; for example those Spanish regions, such as Murcia, returning powers to Madrid.

Territories have different motives for seeking autonomy, devolution, partial sovereignty, independence, secession or departure from the EU. Some are external, particularly the pressures of the Fiscal Compact (the Treaty on Stability, Coordination and Governance). Many are internal, arising from history, pride or a sense of unfairness. Frustration with national governments is a significant motivator in Catalonia and Scotland, highlighting changes in ambitions and capacity over time and in different circumstances.

The practical challenges of the relationship between decisions on autonomy and the structures of the EU are important, not least with regard to the financial issues. In effect, the pro-independence parties within minority and stateless nations have come to campaign for what, in Scotland, is known as 'independence-lite' within Europe despite the centralising pressures of the banking crisis.

Conclusion

Public will, local ambitions, cultural pride and harsh financial reality form a tight knot. Untangling the opportunities and challenges for Wales, the United Kingdom and the European Union relies on informed and honest debate. Wales must continue to promote a mature debate about national identity and multi-level governance. The impact of the Scottish referendum emphasises, especially for Wales, that the actions of one region have enormous implications for their neighbours, historical allies and other communities articulating their own ambitions. At the same time, the growth of English concerns risks a paradoxical outcome: a push for English sovereignty outside Europe could significantly affect the integrity of the UK as the smaller nations see the EU as the more attractive place in which to operate. The situation emphasises why stateless nations, such as Wales, increasingly seek to define for themselves what they want, what is achievable and their path to its delivery.

Wales is poised to take more responsibility for its future and undertake that strategic work of self-direction within the real financial and political constraints. The unanimous support for the devolution of taxation proposed by the Silk Commission is one strong sign of the country's determination to work in a practical and coherent way to improve the accountability of the Welsh Government and to seize some of the levers which will further enhance Welsh solutions. The Welsh experience of multiple layers of government, negotiation and practical problem solving can be of service in shaping and sustaining the two Unions, both of which are fundamental to Wales's continuing success.

Preface

This report provides an overview of the conferences held in May 2013 in Cardiff and London on *Wales, the United Kingdom and Europe*. The conferences were organised as a result of several distinct initiatives: as paired events organised by the British Academy and the Learned Society of Wales on the theme of *Wales, the United Kingdom and Europe*; as the first meeting of the Leverhulme Trust's International Network on Territorial Governance in Western Europe (IN-2012-109), and as part of the activities of the Cardiff Jean Monnet Centre and the UK-wide University Association of Contemporary European Studies (UACES). I thank each of these partners for their exemplary collaboration and support. I would also like to thank the Welsh Government, Wales's European partners and the European Commission for their support and collaboration and for facilitating a European debate that went well beyond the usual framing of the European debate within the UK. The conferences were, first and foremost, about Wales, but debates were informed by the valuable testimony of experiences from other parts of the UK and Europe.

Studying Wales as an emerging polity comprised the first key theme of the conferences. Over the two days, Wales was narrated in its historical, institutional, political, legal and comparative contexts. Kenneth Morgan, for example, purveyed a rich sense of history by reviewing the relationship between Wales and Europe through the eyes of four key historical and contemporary figures (David Williams, Tom Ellis, Saunders Lewis and Rhodri Morgan). In a more contemporary vein, Richard Wyn Jones debated Wales in the context of the UK's changing union. Using extensive survey evidence, he demonstrated a growing public acceptance of devolution in Wales, along with a sense of where appropriate decisions ought to be taken; few people surveyed, for example, believe that foreign policy should be a competence of the Welsh level, but there is growing support for the devolution of police powers. The most striking evidence presented by Wyn Jones related to the latest survey evidence to

identify England and Englishness as the key to the UK's constitutional future. English public opinion appears suspicious of the two Unions; there is a growing sense of alienation towards the European Union, first and foremost, but also a growing dissatisfaction with the United Kingdom as presently constituted, a Union in which English interests are ostensibly ignored. The developments debated during these conferences suggested that constitutional innovations are being driven by the periphery and not fully controlled by the UK centre. At the same time, at the level of UK central government and Whitehall, there has been a refusal to acknowledge that much has changed, or to reshape the apparatus of central government to take devolution into account.

Coming back to Wales, Thomas Watkin engaged in a lively debate on the multiple sources of Welsh law and the future of a separate Welsh jurisdiction. Sources of law-making for Wales are indeed multiform: not only the National Assembly for Wales and the Welsh Government, but the UK Parliament and ministers, as well as the European Union. There now appears to be a manifest gap between legal reality and the formal institutions of Welsh legal governance: in short, Watkin made a powerful plea for a separate Welsh legal jurisdiction that would recognise the historical and contemporary linkage between law and the language. The same roundtable also heard from Paul Silk and Gerald Holtham, the authors of two highly influential reports into the future financial and constitutional arrangements for Wales. The substance of these interventions is referred to in detail in the conference proceedings. The roundtable discussion that concluded the second day witnessed a robust exchange of views about the nature of devolution and the future of the Welsh polity between representatives of Welsh parties. For Labour, Wayne David MP strongly expressed his belief that devolution in Wales is about public policy delivery, not nation-building and that devolution should be judged on its capacity to deliver better governance. This stance was contested by Plaid Cymru, for which devolution is best

seen as part of an on-going process of institution building that has been gathering pace since the late nineteenth century and has a form of independence as its ultimate destination. Would such a destination depend upon what happened in Scotland? Probably. The issue of Scotland, and the 2014 referendum on independence, lay in the background of debates and was referred to by speakers throughout the two conferences.

The second theme of the conferences was that of Studying Wales in its *comparative, multi-level and European context*. Why should Europe matter to Wales? After all, the UK is not a euro member-state, so why should we bother about developments in continental Europe? Such a narrow approach would be highly detrimental. Europe matters for Wales in many different ways. The European Union provides substantial resources for Wales through its regional funds, the Common Agricultural Policy and the Single European Market. Engaging positively with the EU is of vital interest for Wales: governing agriculture, structural funds, rural development or social policy is facilitated by defining a domestic project that differs somewhat from that of England, but finds support in the broader EU context. The EU can be a valuable ally for Welsh devolution. But what's in it for Wales today? Have these attractive features of a European engagement been called into question by the economic and political crises? Can Wales stand alone from either the United Kingdom, or Europe? These real questions know of no easy answers. It is difficult to see, however, how Wales would prosper in a United Kingdom without Scotland and adrift from the EU. The first of our two conferences focussed squarely on Wales in its European context and drew liberally on comparative examples (from Spain, Belgium Germany and France), as well as first-hand accounts from politicians and practitioners from across these nations and the EU.

The third theme addressed by the linked conferences was the need to *study Wales in its comparative context in an age of austerity*. The Leverhulme Trust's International Network on Territorial Governance (IN-2012-109) brings together scholars from five European countries who are interested in the comparative dynamics of European territorial governance. The starting point in our deliberations is whether regions in Europe are subject to powerful and converging transnational economic, political and institutional pressures. Are the external constraints of managing the economy enforcing new forms of territorial convergence in an era of financial austerity? Is the bleak economic environment calling into question

the move towards more decentralized forms of territorial management in Western Europe? Or are such fears exaggerated? The Cardiff conference in particular brought together the main academics involved in the European network for the first time; their discussions were enriched by the testimony provided by politicians and practitioners from Belgium (Flanders), Spain (Catalonia) and France (Brittany).

My thanks go to Sarah Tanburn for her efforts in combining academic and practitioner accounts and in making sense of the two days: I strongly endorse this report.

Professor Alistair Cole, FLSW AcSS FRSA FRHS

School of European Languages, Translation Studies and Politics, Cardiff University

1. Wales: building a Nation

At a time of great change in the UK and EU, what does Wales need to do? This chapter discusses the fragmenting constitutional arrangements. It suggests that in the complex discussions of finance, law and history, Wales can take a prominent role in discussion of the nature of the United Kingdom and the role of sovereignty and independence within the evolving landscape of politics and national identity.

1.1 An ever-looser Union

This section is largely based on the presentation by Professor Richard Wyn Jones²

Growing support for devolution within Wales

The United Kingdom is having three and three-quarters constitutional debates, each with its own internal dynamics. Whichever way the Scots vote in 2014 will have a profound effect on the rest of the Union. The ‘no’ vote is showing a majority (at May 2013), however there is little support for the status quo either, indicating that a very clear majority want more devolution. If Scottish independence is rejected the member-states of the UK will still face major challenges to the current constitutional arrangements. The Welsh Government is promoting further devolution and the adoption of the ‘reserved powers model’ for Cardiff, including responsibilities for policing and some tax devolution. Much analysis of these debates, public opinion in this realm, and of the constitutional framework, suggests that the trajectory is to *ever-looser Union*.

At the same time, it is striking how little has changed in the central UK Government (UKG) since 1999. Although many UKG Cabinet Ministers now have at best only limited powers outside England, the apparatus of Whitehall has barely altered since devolution. Continuing centralised strategies, and a culture of contempt for local governments within the civil service, will promote a backlash as devolution continues to develop.

The 1997 Welsh devolution referendum saw a tiny majority for devolution – just 0.3% of the electorate. The Welsh appetite for change has grown; in effect the public have already adopted a ‘reserved powers model’, where the default position is devolution, and it is for the constitutional arrangements to catch up.

Heterogeneity across the UK

Not all parts of the UK have the same views. The Welsh public is not as strongly pro-European as the Scottish, but is pragmatic in its response. Surveys overall show a clear preference in Wales for staying in the EU, even amongst those who overall are Eurosceptic, and Scotland is broadly pro-European. In an IPSOS-MORI survey of February 2013, a majority of Scots (53%) declared they would vote for Britain to remain a member of the European Union in the event of a referendum being held. In effect, people comfortable with European membership are comfortable with multiple and layered national identities, a finding consistent across the EU. It is the English people who are showing discontent with the two unions – the UK and with Europe. Euroscepticism is closely linked to *devolution anxiety*, the concern that England is under-represented and is losing sovereignty and influence.

² The figures cited in this presentation are in the main those contained in the 2013 IPPR report *England and its Two Unions*, co-authored by Richard Wyn Jones, Guy Lodge, Charlie Jeffery, Glenn Gottfried, Roger Scully, Ailsa Henderson and Daniel Wincott. They are based on a survey carried out by YouGov, conducted from 23–28 November 2012, based on a representative survey of 3600 respondents, using standard weighting factors such as age, gender, religion, social class, newspaper readership and past vote. This data and analysis can also be found in the British Academy Review, Issue 22 (Summer 2013): ‘Ever Looser Union: The Future of the UK’ by Richard Wyn Jones.

DIFFERENT MODELS OF DEVOLUTION IN THE UK

"The Welsh dispensation can be contrasted with those in Scotland and Northern Ireland. In Wales, the Assembly has no power to legislate except in relation to the specific conferred areas of competence – sometimes called the 'conferred powers model'. In Scotland and Northern Ireland, the Parliament and Legislative Assembly can make laws about anything at all, except for those areas which are expressly reserved to Westminster – the 'reserved powers model'.

Furthermore, under the model in Scotland and Northern Ireland, there is no constraint relating to executive powers of UK Ministers. In those countries, the starting point for a politician or an NGO promoting legislation is to assume legislative competence, and avoid exceptions and reservations. On the other hand, in Wales the first thing to do is to see whether the Assembly has the power in the first place, then consider the express exceptions in the 2006 Act, and then wonder whether any pre-existing UK Ministerial functions might be affected.

The reserved powers model brings with it practical and legal difficulties, such as many "limbo" areas, which are neither expressly inside nor expressly outside the

Assembly's ability to legislate. The problem is not so much that the Assembly lacks the power to legislate in areas such as policing and criminal justice (it doesn't lack them – they are limbo areas) or broadcasting, but that the constraints on the Assembly's ability to legislate create confusion, uncertainty and occasionally paralysis. Politicians are nervous about legislating to do good as they see it (for example, to ban smacking) not because of policy reasons, but because of a lack of clarity about what is inside and what is outside the Assembly's powers. The Welsh polity appears to lack self-confidence when it comes to legislation, anxiously looking over its shoulder in case London is offended.

Now, whatever system exists for the division of competencies between periphery and centre within a state, there will be grey areas, and the need to tidy things up every so often. The difficulty for Wales, however, is that the conferred powers model gives rise to considerably greater uncertainty than the models in Scotland and Northern Ireland. That uncertainty is psychological as much as legal."

Emyr Lewis, Click on Wales (26th June 2013)

Surveys across Europe have looked at where people believe decisions do rest between multiple levels of government, and where they *should* rest. England is consistently out of line with other countries, with almost one in three people (31%) believing that the EU has the most power. Among UKIP supporters this rises to 69%. In Wales just 8% believe this, in line with the rest of Europe. So Euroscepticism is not a UK-wide phenomenon but markedly an English one.

EU concerns are linked with issues around devolution. For example, there is strong English support for Scotland being financed from its own tax base, and that support gets much higher amongst Eurosceptics. Seventy-one per cent of people who oppose membership of the EU do not trust the UK Government to work in English interests.

Further, it is clear that the current governance arrangements for the UK are unpopular. Even within England, there are differences between those who define themselves primarily as *English* and those who define themselves as British. The more English you feel, the more Eurosceptic you are. Amongst 'English not British' identifiers, support for the proposition that the EU is

a 'good thing' plummets to just 14% of the surveyed population. Devolution anxiety and Euroscepticism are closely linked amongst those who strongly identify as English and want recognition for England, but there is no consensus on the form this should take.

Public opinion, the pressure of political elites and growing policy divergence are all drivers for an ever-looser union in the UK. There is, though, no coherent discussion about the complex, practical issues of a new constitutional settlement, and little evidence that the central apparatus of UKG recognises the challenge or wishes to change. This is an opportunity for Wales to facilitate a broader debate about the future constitution of the UK, outside the confines of English nationalism and the Scottish pursuit of independence, a debate based on evidence and an historic comfort with power-sharing and multi-level governance alongside a strong and positive sense of national identity.

1.2 Money and power

This section is largely based on the presentations by Gerald Holtham and Paul Silk.

The mysterious Barnett Formula

Gerald Holtham chaired the Independent Commission on Funding and Finance for Wales, established by the Welsh Assembly Government in the wake of the coalition agreement of 2007. He reminded delegates of the fundamental questions posed by his Commission: who is going to pay for public services, and how to do they get the money?

The current situation in Wales is unique: no other government in the world receives a block grant which it is free to spend as they choose, but has no powers to raise or control its own revenue. It is a basic principle of public finance that spending bodies should raise as much of their own finance as possible. In practice there is always a gap in that subsidiary levels of government raise less money than they spend and the centre proves a grant, but for Wales, the gap has been maximised. The UKG, in establishing the Silk Commission, excluded consideration of the block grant from its remit; it is in their interests to avoid scrutinising that part of the system.

The Barnett Formula, unlike the English system for funding local government, which is based on the principle

of equalisation across local authorities for the delivery of specific services, such as education, does not explicitly take into account the service and financing needs of the devolved territories. Revenue support grants to local authorities do take account of the revenue available within local authority areas before the equalisation calculations are made and the Barnett formula is adjusted for the council tax base in each devolved territory. In no other respect is it based on claims to fairness or justified by specific circumstances; it is, quite simply, a formula used to divide the UK public finance cake with a minimum of administrative or political effort. Block grants to Scotland, Wales and Northern Ireland are based upon grant increases for public services that are delivered in England. The operation of the formula is developed in the text box.

The Holtham Commission asked a simple question. If Wales was in England, how much money would it get? This calculation showed that if the UKG used its own preferred redistribution methodology, Wales would be approximately 2–3% a year better off. The analyses published by Holtham showed that if the Barnett formula is compared to redistribution formulae favoured for England, Wales should certainly not be receiving any less than Scotland per head, and has a good case for more.

The challenge for the Welsh negotiators is the oil-based wealth of Scotland combined with its nationalism. The UKG will not change the distribution in any way which

THE BARNETT FORMULA

The formula determines the amount of block grant that Wales receives from the UKG. The general public, and many politicians, find it mysterious. This is the simple way to think about it, as explained by Mr Holtham.

The UKG devolves certain responsibilities. For those functions the UKG starts from the previous year's grant, worth x. (The derivation of x is irrelevant to the formula.) It then takes this year's increases in expenditure per head on those functions in England and gives Wales, Scotland and Northern Ireland exactly the same increase per head in cash terms on their grant.

Therefore if Wales starts with higher spending per head, and public sector expenditure is growing,

the increment is a smaller percentage than in England and over time the Barnett Formula will squeeze Welsh public spending relative to England. While public expenditure is contracting, the opposite is true, but when (and if) spending starts to grow again, the squeeze will resume.

The Barnett Formula has no explicit justification beyond convenience. It operates automatically to calculate the devolved share of the UK public finance cake.

For a longer exposition by Mr Holtham, see his guest post at Devolution Matters, from July 2011, at devolutionmatters.wordpress.com/?s=holtham

reduces the Scottish allocation. A Scottish vote for independence will entail a review of the Barnett formula, but there is little reason to think the Welsh voice in the reformed UK would be any stronger than it is now. Bilateral discussions are underway between the Welsh and UK governments, but it is clear that there is no prospect of amending the Barnett Formula. Therefore the Welsh Government is arguing for a floor for block grant calculations, which would fix the proportion of public spending going to Wales and avoid the continuing relative pressure on future Welsh governments when public sector finances stop shrinking and grow again.

Tax devolution: can the Welsh Government take responsibility for part of the Welsh tax system?

In the context of tax devolution, Mr Holtham commented that ideally, everyone wants a country to enjoy or suffer the consequences of its own actions, for better or worse with a minimum of spill-over effects on neighbours. Indeed that is the design criterion for systems of tax devolution. There is a tension between that objective, the desire for responsibility, and the objective of providing at least the potential for equal public services across the UK. In practice, variations in both financial capacity and political priorities will lead to divergent financing of public services

across the UK, a cause of major political difficulties. Tax devolution enables the UKG to reduce the block grant, but that has to be done assuming standard rates of tax; if the block grant is altered every time the tax level changes, in fact there has been no devolution.

Paul Silk, who chairs the Commission on Devolution in Wales, also spoke on 31 May. In addressing fiscal devolution, his Commission worked hard to get all party support for the recommendations in its first report (summarised in the box). The Assembly unanimously endorsed the report which involved compromises by all parties. This was in sharp contrast to the Calman Commission in Scotland which was boycotted by the SNP. There are other important differences between the two countries, not least economically. Thus, although Scottish precedents for change can be helpful, it is not axiomatic that following Scottish examples is in Wales's best interests.

One interviewee in the Convergence and Divergence research project (see Chapter Three) commented '*the capability to be better off or worse off exists as soon as you get more powers, so there is then a judgement as to whether the powers would be well or badly used [...] you can't look at the history and be 100% confident that the*

THE SILK COMMISSION RECOMMENDATIONS FOR TAX DEVOLUTION

We have recommended that Stamp Duty Land Tax, landfill tax and (subject to on-going state aid discussions) aggregates levy should be devolved to the Welsh Government. We have also recommended the devolution of long haul rates of Air Passenger Duty, and consideration of full devolution in the future. [...] In addition, we have recommended that business rates should be fully devolved to the Welsh Government in the same way as in Scotland and Northern Ireland, provided the UK Government and Welsh Government agree the appropriate adjustment to the Welsh block grant. [...] we have concluded that income tax would be appropriate for partial devolution. As in Scotland, the taxation of income on savings and dividends should not be devolved.

We have recommended that the Welsh Government should share responsibility for income tax at all rates with the UK Government. The most straightforward way for this to happen is for the UK Government to decide the structure of income tax, including the personal allowances and

the income thresholds to which income tax rates are applied. The UK Government would then reduce each rate of income tax that applies in Wales by ten pence in the pound, and also reduce the grant to the Welsh Government by an equivalent amount.

The National Assembly for Wales would then vote to decide the level of Welsh income tax for each rate (currently basic, higher and additional) individually. This could restore the 10p that was deducted (to restore the status quo) or different rates could be applied to each rate. The power to individually vary income tax rates that are applied to each band in Wales is essential to the design of the devolved income tax system in Wales. If the tax rates were raised, the Welsh budget would be higher; and if they were reduced, the Welsh budget would be lower.

Taken from the Executive Summary of the Commission's first report.

powers will be well used.' Of course the 'good' or 'bad' use of powers and resources is the very stuff of political debate. It is clear though, as Chapter Two sets out, that fiscal autonomy must begin with responsibility for revenue within a clear framework of public accountability and financial management.

Wales has therefore made an agreed and powerful case for 'growing-up'. Any change must be set within the national framework; if London, as the recent Travers report suggests, receives greater powers and control of its taxes, will other city regions in England want to follow? And of course, if equalisation is modified or abandoned as a UK funding objective, then Wales, as a beneficiary of redistribution, can only lose resources where London gains.

At the time of the conferences, the UKG response to the first phase of the Silk Commission's work was still awaited but is expected for the Autumn of 2013.

Dyfal donc a dyr y garreg: perhaps the 'drip, drip' approach is the right one.

The current constitutional settlement has evolved through a 'chapter of accidents'. John Osmond, former Director of the Institute for Welsh Affairs, cited the introduction of proportional representation into the National Assembly for Wales election process as one such accident, precipitated by the need to ensure Plaid Cymru support for the Blair Government's devolution proposals despite the imposition of a referendum (originally intended to appease the Scots on the subject of tax).

Thus there are many parts of the Welsh devolution settlement which appear to lack an intellectual rationale; Mr Silk said that these will be the focus of his Commission's review of the powers of the National Assembly, for example considering the different models of devolution. Powers are reserved in Scotland, reserved and excepted in Northern Ireland and conferred in Wales; is there a principle behind this, or is it an accident? If there is a principle, does it withstand scrutiny? If it is an accident, is it a happy accident? Is it defended because of constitutional inertia? Turning to direct services, policing is not devolved in Wales when it is in Scotland and Northern Ireland. On the other hand, health is almost entirely devolved. Again, is this pragmatism or principle? Historical accident or strategic design? The issue of where the devolution line is drawn, and of which government has competence, is contested all across the frontier.

Of the broader questions, beyond the Commission's remit, the biggest is fair funding and the future of fiscal autonomy for the countries and regions of the United Kingdom. This question is closely linked to the impact of asymmetric devolution. There are other procedural questions, for example about subsidiarity and localism. How many levels of government are needed – from community council to European Union – and what should be their relative powers and interrelationships? Is the centre of the UKG able or willing to reform in the face of devolution; a question which extends to the make-up of both Houses of Parliament. Constitutional settlements, Mr Silk reminded delegates, ought not to be immutable.

Vernon Bogdanor FBA, in his *History of the British Constitution in the Twentieth Century*, argued that the historic UK settlement, based on tacit understandings more than codified rules, might be in the process of transformation to a quasi-federal codified constitution, but that it also risked remaining in no-man's land because there was '*little political will to complete the process, and little consensus on what the final goal should be*'. The establishment of the devolved administrations raised '*fundamental questions concerning parliamentary sovereignty and federalism, questions that successive governments sought to avoid answering*'.

Even before considering political will, consensus is needed on the need for and approach to the discussion. The Commission on Devolution offers lessons: get all-party buy in, and involve civil society and citizens in what New Zealand calls "the constitutional conversation". If pre-legislative scrutiny is a good idea in the case of ordinary day-to-day legislation, then thorough testing is even more desirable in the case of proposals for constitutional change.

All of these questions point to the difficulties of the current ad hoc emergence of a quasi-federation in the United Kingdom. It was suggested, that perhaps instead the country could consider a settlement where the rights of the 'federal government' (Whitehall and Westminster) are as subject to the rule of constitutional law as the rights of the 'states' that make up the federation? And if that is not a reasonable goal, the UK may need better mechanisms for the resolution of disputes between the Governments within the UK, or, on the positive side, for enhancing their co-operation.

Fundamentally, where does sovereignty belong?

1.3 Language and Law in Wales: a separate jurisdiction?

This section is based on the presentation by Professor Thomas Glyn Watkin.

The legacy of Hywel Dda

The two most important elements in the national identity of the Welsh people in the millennium before the Tudor union were language and law. Henry VIII's Acts of Union, 1536 and 1543, removed law as an identifying factor as surely as Elizabeth I's provision of a Welsh Bible and Prayer Book preserved the language into the modern era. At the same time, Henry had provided a new kind of legal identity for Wales, in the form of the country's own law courts – the Great Sessions – but those were lost amid the centralising enthusiasm of the nineteenth century.

Within a generation of that loss, and in the wake of the extension of the franchise, the demand for recognition of Wales's individual identity began to be heard as part of the emergent spirit of nationhood shown, for instance, by Tom Ellis, the late nineteenth century Welsh politician and leader of Cymru Fydd, and his peers. Their ambitions were in harmony with the outcry across Europe against uniformity in legal and constitutional arrangements coupled with support for institutions reflecting national traditions and perspectives. There began a slow trickle of laws operative in Wales alone, culminating in the disestablishment of the Church, alongside the creation of many national cultural institutions.

It is only in the last two decades that political and legal developments have caught up with the cultural domain. The creation of the National Assembly and the formation of a Welsh Government have ushered in a new period in Wales's political and legal history, a period in which it not only has a constitutional identity but also legal institutions which can act as a focus of that identity. Both the National Assembly and the Welsh Ministers now make laws for Wales which apply only in Wales, which are made by the representatives of the Welsh people alone, and which are made in the languages of the nation. Law has again joined language as a focus for national identity.

The differences between Welsh and English law
Are the characteristics of the current legal life which distinguish Wales from England sufficient to constitute

a national identity in legal matters? There are several key differences between the devolved Welsh arrangement and those of the central UK Government. Many of those differences make Welsh governance more 'European' in its flavour than has often been the case in Britain.

The National Assembly and the Welsh Ministers are both sources of law for Wales, but they are not the only sources of legislation. Law continues to be made for Wales by the UK Parliament and by UK Ministers, as well as by the institutions of the European Union. Indeed, the UK Parliament, as the legally sovereign body, continues to enjoy the power to legislate for Wales – as for other parts of the UK where legislative devolution has occurred – even for devolved competencies. The Assembly's legislative powers are limited and open to challenge before the courts which makes it more like legislatures operating within the confines of a written constitution. The fact that the Assembly shares its legislative power with Westminster may make it and Wales more comfortable than Westminster with the concept of sharing legislative power.

The Assembly is also elected in a manner with similarities to the legislatures of mainland Europe. Forty of its 60 members are elected according to the first-past-the-post electoral system used in UK parliamentary elections and the remaining 20 regional members are chosen by a form of proportional representation. This has resulted in no one political party having so far achieved an overall majority in the Assembly, so that Welsh Governments are regularly either coalitions or minority administrations. A more inclusive, consensual style of political debate has developed within the Assembly and its committees, making them more receptive to proposals and interventions from outside of Government and the Assembly chamber.

Within the Chamber, there are also some differentiating characteristics, including the possibility of appointing a member of the Welsh Government from outside the Assembly membership – the officer in question being the Counsel-General who, although not one of the Welsh Ministers, is a member of the Government. He or she is not only allowed to speak in the Chamber and to be questioned in it, but may also introduce legislative proposals, a privilege not conceded to the UKG Secretary of State for Wales.

The most obvious difference between the Assembly as a legislature and the UK Parliament is the fact that proceedings in the Assembly are bilingual; they are

routinely conducted in both the English and Welsh languages. Members, and those appearing before committees, speak in the language of their choice. Proceedings switch effortlessly from one language to the other, with simultaneous translation available when required. Virtually all subordinate legislation made by the Welsh Ministers is made in both languages, and bills have to be introduced into the Assembly in both languages, undergo scrutiny and amendment in both, and are passed into law in both. As both language versions are of equal standing, the law which applies in Wales is manifestly different from that which applies in other parts of the United Kingdom.

The implications of diverging legal systems and bi-lingual law

The laws made by the Assembly and by the Welsh Ministers are not to be found in the English text nor in the Welsh text, but in the two texts together. In this, they are like the laws of the European Union. In that system, questions of interpretation are resolved by the European Court of Justice, which is a collegiate body, composed of judges from across the member states, each one of whom must have a knowledge of more than one official language in order to be qualified to sit. It is, by its very constitution, a multilingual tribunal, capable of dealing with the interpretation and application of laws made multilingually. No such requirement is made of the courts of England and Wales charged with the interpretation of the bilingual laws which apply only in relation to Wales.

Does Wales now need its own judicial institutions to set alongside the devolved legislature and executive? The law of England and Wales now comprises three distinct bodies of law – one of which applies only in England, one of which applies only in Wales, and one of which applies equally in both nations. One of those bodies of law differs from the other two in being bilingual, and the courts which sit in Wales differ from those which sit in England in being legally obliged to receive evidence in either language. It is not surprising that some regard the concept of England and Wales as a single jurisdiction to be little more than the most recent in the long line of legal fictions. Ironically, Wales now lacks the one piece of legal identity which it has enjoyed for the greater part of its post-Union history – a measure of judicial devolution.

The UKG may be reluctant to take that step, and it seems the search for a separate jurisdiction may meet with the

same kind of resistance which met the campaigns for the creation of executive and legislative institutions. Their reluctance is possibly related to the fear that growth of European institutions is serving to create a European identity which could rival British identity, which in turn is linked to the devolution anxiety identified in public surveys. As those surveys suggest, the Welsh are more comfortable with such multiple identities, for Wales is long familiar with preserving and sharing its identity within larger political units.

At the moment the justice system relies on administrative solutions to manage constitutional problems, so, for example, it is only judges' practice directions which steer Welsh cases to be held in Welsh courts. In the same way, the distribution of funding to Wales is treated as an administrative issue rather than one determined by a constitutional settlement fashioned by those accountable to the people for their decisions. The process needs to move from being administrative to one based on settled constitutional principles guiding the relationships between the countries of the UK.

1.4 Nationalism, revolution and devolution

This section is based on the presentation by Lord Kenneth Morgan.

What does nationalism mean?

The concept of 'Wales' is not straightforward and the meaning of Welsh 'nationalism' is contested. The different approaches of four Welsh nationalists highlight this complexity.

David Williams (1738–1816) responded passionately to the revolutions in America and, even more, in France in 1789. His was a revolutionary, radical Europe, at least at first, a Europe of reason, of nature and enlightened thought. He was closely linked with the French Girondins and received honorary French citizenship. In later life, his political outlook became far more conventional but he was the pioneer of a new generation of free-thinking, dissenting radicals who so influenced Welsh political life down to the 1830s. His generation had many legacies, not the least of which is the National Eisteddfod.

Tom Ellis (1859–1899) was far more political; he became Liberal MP for Merioneth and in 1894 the party's Chief Whip. Yet he was a new kind of Welsh politician, a cultural nationalist and a visionary prophet of national destiny. From the Italian Giuseppe Mazzini he derived the idea of a romantic secular religion of communally-focussed citizenship, a nationhood based on association and faith. He claimed that this was especially appropriate for Wales where its key concepts – indeed the very name 'Cymru' – implied a social, collective vision. His was a gentler, more culturally focussed nationalism than that of his younger colleague David Lloyd George. But Ellis was also a practical politician who saw the obstacles standing in the way of a self-governing Wales.

Saunders Lewis (1893–1985) was a nationalist of a different era (embarking on his role in the years after 1918). He had total contempt for the nonconformist Liberal democratic hegemony in Wales prior to the First World War. His ideas were based on his intense Roman Catholicism and his reverence for the Middle Ages, and he became president of Plaid Cymru in 1925 to propagate these views. He was strongly European in outlook and moved steadily right during the thirties, wrote in support of Mussolini's corporatism in Italy and sympathised with Vichy and Pétain's regime in opposition to the Resistance. He maintained an attitude of total neutrality during the Second World War. Plaid Cymru has had to struggle with charges, resulting from interpretations of Lewis's writings, that it was a pro-fascist party. Lewis certainly bequeathed an organic linguistic nationalism which, under the pacifist Gwynfor Evans in the 1960s evolved into more democratic forms.

Rhodri Morgan (born 1939), first minister of devolved Wales from 2001 to 2009, was strongly pro-European in outlook from the 1970s on. His is a Social Democratic Europe, the Europe of Jacques Delors, the TUC's 'frère Jacques'. He headed the EC office in Cardiff from 1980 to 1987, and was part of a powerful wing of the Welsh Labour Party, along with three musketeers, the Welsh-speaking Aberystwyth graduates, Hywel Ceri Jones, Aneurin Rhys Hughes and Gwyn Morgan, which tilted Labour in Wales in a strongly pro-European direction. A Wales European centre was set up in Brussels and in 1997 John Osmond and Sir John Gray published *Wales in Europe*. Rhodri Morgan's becoming First Minister in 2001 was highly important for Wales's European dimension. Wales now saw itself, not only as a recipient of European largesse for its deprived valleys, but also a pro-active participant in

pan-European policy development. In the era of Rhodri Morgan's leadership, therefore, greater devolution and European involvement marched side by side.

All four strains of Europeanism have left their mark on modern Wales – the republican rationalism of David Williams, the romantic gospel of nationhood of Tom Ellis, the militant organic nationalism of Saunders Lewis, the social democracy of Rhodri Morgan.

The reconfiguration of the United Kingdom, whether federal, confederal or whatever, will profoundly shape the relations of its component nations with Europe. In a more pluralist EU, smaller nations like the Catalans and the Scots could become more assertive. The stresses that result are most evident in Scotland; pro-Union Scots would not want an England-dominated Britain which might cut adrift from Europe. However, there could be a crisis in Wales too if England resolves to leave the EU against the declared will of the Welsh.

Nationalism in Welsh party politics

The demand for independence is a key differentiator between Plaid Cymru and the Labour Party. Wayne David, MP for Caerphilly, described a sea-change in Labour as the party moves from thinking of Welsh devolution as tangential to recognising its popularity in the country. Increasingly, in Mr David's view, Labour sees devolution and decentralisation as an effective instrument for regeneration, but does not support 'nation-building' for its own sake. The next steps in devolution need to build on success so far and directly address people's concerns about money, jobs, education and security.

The Commission on Public Service Governance and Delivery was established by the Welsh Government in April 2013, chaired by Sir Paul Williams. The Public Services Leadership Group is a partnership led by the Welsh Local Government Association working to improve service delivery.

Dr Euryl ap Gwilym, speaking for Plaid Cymru, argued that nation-building serves the interests of the people of Wales; institutions, whether the National Library, S4C or the National Assembly, are a key part of that ambition. A long view is necessary; Scotland has had a financial advantage within the UK since the 1707 negotiations and Wales is still catching up. Welsh nationalism,

like Scottish development, suggests a move towards a quasi-federal model for the UK, but the big caveat is the state of the Welsh economy. In fact, the continuing difficulties, where Welsh GVA per capita is still only 75% of the UK average (compared to 99% in Scotland) do not provide strong support in the short term for independence. The issue of independence can appear a longer term issue; it is clear that on the doorstep people are most concerned about more immediate issues such as employment and education. It is essential to improve communications between politicians and people, at all levels of governance. However, the devolved Government is quite centralist within Wales, which opens up the question of the relationships between different layers of government within Wales and the potential for improving arrangements.

In practical terms, all parties agree that Wales needs to develop a cadre of people who want to change their community and society; in this context the 2011 election of young and talented Assembly members was particularly welcome. In turn this opens up the controversial question of how Wales should develop strength in depth for all levels of its public services, building on the work of the Commission on Public Service Governance and Delivery and the Public Service Leadership Group.

The English Question

No discussion of nationalism in any part of the UK is complete without thinking about English nationalism and how it differs from that of Scotland or Wales.

Mr John Osmond argued that by 1999 it was already possible to understand what it meant to be a Scottish citizen, where the reconvened Parliament was the keystone in an arch of jurisdiction, legislation, civil bodies and institutions. Wales has worked fast building that arch, using institutions that have grown over the last century. By comparison, within the UK Government, several Cabinet Ministers effectively only have English responsibilities, especially in high-profile public services such as education, health, culture and local government and many organisations focused on England are called 'British'; there is a perceived lack of English representation. The so-called West Lothian question (whereby Scottish, Northern Irish and Welsh MPs can vote on English-only bills, but English MPs cannot normally influence legislation in devolved matters) continues to act as a source of friction between England and the other home nations. Various

institutional responses have been imagined, most recently the 2013 McKay Commission proposal that future legislation affecting England (but not other parts of the UK) should require the support of a majority of MPs sitting for English constituencies. The consequences of such a move would be far-reaching, including the prospect that a future UK-wide Labour government lacking a majority in England would in practice be deprived of legislative authority in all four UK nations.

Part of the solution to the English question might also lie in enhancing regional devolution, but, as Wayne David MP argued, there is no appetite in any party for reviving the proposals for formal self-governance in the English regions, after the resounding failure of the 2004 referendum in the North-East. Given this reluctance, both the Conservative and Labour parties have resorted to forms of localism as a response to the perceived centralisation of UK policy-making. The Coalition government's localism agenda has enhanced decentralisation in some respects. In this context, as Mr David said, the Labour party sees itself as re-articulating the debate in terms of devolution to voluntary associations, to local authorities and emphasises empowering community organisations at the grassroots.

As it stands, devolution has been described as a divergence machine. In some cases, for example around tuition fees and prescription charges, devolutionists in Scotland and Wales have retained services that are now fragmented or non-existent in England. The Leader of the SNP has used this divergence to support arguments for Scottish independence. The different approaches to social justice across the UK appear to be motivators for devolution and independence in the Celtic nations. Support for membership of the European Union is also closely linked to those approaches.

At the same, as several speakers commented, there has been little change in the apparatus of government at Westminster and Whitehall. Not only is it seen as politically risky to open debates about English governance, but the civil service has a long history of centralism, while local government is continually changed at both macro and micro levels. In many continental countries, Mr Osmond reminded delegates, the opposite is true, with settled arrangements within regions and lower tiers of government even while the structures and powers of national government are heavily contested and frequently amended.

The historic alignment of Englishness with the Crown is pushed to its limits by the heterogeneity emerging within the UK. The profound unpopularity of multi-level governance and the status quo, together with distrust of the EU, are closely connected with Englishness. In turn these are sometimes linked to ideologies at odds with the European project. In the growth of English concerns, there is the risk of a paradoxical outcome: a push for English sovereignty outside Europe could be the break-up of the Union as the smaller nations see the EU as the more attractive place in which to operate.

1.5 Wales and Europe: practicalities and personal journeys

Hywel Ceri Jones, now of the Wales Governance Centre at Cardiff University, has been active in European affairs for over 30 years. He reflected on the importance of Wales's relationship with the EU, the country's unique position in the UK and impact of European budgetary decisions over the next fifteen years. Decisions are also being made which will affect Wales over the next decade; in the emerging shape of the European budget post 2020, it is likely that the Valleys and West of Wales will be the only UK region benefiting from structural fund investment. Therefore, the comprehensive, multi-layered objectives for 2020–26 will be of great significance to Wales as a whole, for many communities and for professions from education to land-use planning. In this context the Welsh Government needs a visible and united voice on European affairs now more than ever.

Why now and why Wales?

This section is largely based on the presentation by Professor Alistair Cole.

During the first decade of devolution, Wales was anxious to engage in 'comparing up', projecting Wales as a legislative region, or a small nation engaged in relationships with cognate 'national-regions'. There are some obvious models for polity-building ambition in Wales; Catalonia and Quebec, for instance, are regions/nations with strong identities in regional or federal states. Such comparisons are invaluable in providing insights into the development of Wales as a polity, a vision that blurs the reality of formal boundaries distinguishing regions and states. There are a number of processes at work, a

spectrum of trans-nationality. The key criteria are: cultural affirmation (Brittany, Catalonia, and Quebec), political legitimisation through 'comparing up' (Ireland, Latvia, Baden-Württemberg, and Catalonia), resource-based alliance-building (Ireland and Brittany) and policy learning (for example, taking models of early years education from Canada and Finland).

The story of multi-level governance is itself one version of the debate around Europeanisation: the linkage between European integration and regional capacity building. Academic studies of the impact of Europeanisation on regional empowerment present contradictory expectations: some have argued the EU approach has created direct opportunities for regional mobilisation and has strengthened sub-national territories at the EU level. Others have argued the opposite, suggesting that European integration reinforces the centralisation of power, including a centralised decision-making structure to which regional actors have limited access.

How does Wales fit into this rapidly evolving debate? Over time, Welsh politicians have become more ambitious; experience has allowed the development of more autonomous approaches to policy and service delivery and there are signs of political dissonance in Wales (though much less so than in Scotland). During the early years, Assembly Government ministers and officials demonstrated a clear preference for using informal bilateral links with the UK central Government, seeking pragmatic coordination within the UK. Today, although the Welsh Government is careful not to take stances that openly question the UK Government, it has become more confident in making the case to defend Welsh interests in Europe, not always the same as those of the UK as a whole, whether in relation to the CAP, to structural funds or to social Europe.

What does the EU do for Wales?

Beyond the concrete benefits of structural funds, there are perceived benefits to active engagement with the EU which promote the capacity of the devolved Government.

In institutional terms, such engagement is best seen as part of a broader process of domestic institution building and policy differentiation: governing agriculture, structural funds or rural development is facilitated by defining a project that differs from that of England and relies on the broader EU context to support capacity building in Wales. The EU dimension provides opportunities to embed

and develop institutional and policy competencies and for ambitious devolved governments with representative offices more akin to diplomatic missions than to standard regional offices in Brussels.

The EU also offers an arena that facilitates the framing of Wales as a small, socially just, nation through the transnational networking that offers devolved governments the prospect of reconceptualising their role as small European nations. Devolved governments are actively engaged in constructing new political spaces that go beyond the domestic sphere even with limited legal powers and constrained fiscal capacity. Transnational relationships provide one important route to the construction of Wales as something more than a peripheral region carefully distinguished from the non-national regions in the UK, such as North-East England. The European and international arenas allowed these polity-building diverging strategies to be pursued at minimal cost.

Wales back in Europe after more than half a millennium

Desmond Clifford is now Principal Private Secretary to the First Minister of Wales. When he was appointed Head of Office in Brussels for the Welsh Assembly, the BBC described him as the country's first representative in Europe for 600 years. On 24 May, he spoke about his experience

(emphasising that he spoke in a personal capacity) starting with the quantum leap marked by devolution. It was an overnight change for the UK, and also for the EU which had to look at the UK constituent nations in a different way.

Devolution enabled Wales to operate at a much higher level. Governmental status opened doors as conferring diplomatic status on civil servants as key in accessing the EU hierarchy. Ministers attend the Council, and officials attend working groups (as part of the UK delegation). Welsh Government representatives are required to attend discussions in London where UK policy is formed. Wales is a managing authority for European Structural Funds and Assembly Members sit on the Committee of the Regions. It is notable that the Welsh Government works closely with all four Welsh MEPs; they operate as an effective team for Wales despite party political differences. Officials also support other UK MEPs who are involved in EU Committees with strategic relevance to Wales. Welsh is spoken in Brussels, made possible by the historic agreement achieved by Catalonia.

For several years after 1999, Europeanisation in Wales was on an upward path. There was money available through the structural funds and active participation in policy making and the pan-European effort to promote the role of regions in the future of Europe. These efforts culminated in the Lisbon Treaty of 2007 (ratified in

CO-OFFICIAL LANGUAGES IN THE EUROPEAN UNION

On 15 July 2008 the EU Council of Ministers approved a new status for the use of Welsh as a 'co-official' language within EU institutions. This agreement related to the use of Welsh in the Council and paved the way for further negotiations on the use of Welsh in other EU institutions such as the European Commission or the Committee of the Regions.

The EU Council of Ministers is the key decision-making body of the European Union, through which all national governments participate in the decisions of the European Union. The EU Council is the primary authority for decisions on the use of languages within the EU and takes these decisions at the request of the Member State concerned. No EU institution can provide services in a particular language if the Member State concerned does not request this. For example, France has never requested the inclusion of Breton in EU affairs, thus, EU institutions do not use Breton.

In July 2005 the EU Council created a new category of languages, next to the existing category of "official languages" (23 languages), and called these "co-official" languages. This was done at the request of the Spanish Government, who wanted to include Catalan, Basque and Galician in EU affairs. Co-official languages can receive certain services in the EU, such as for example interpretation during meetings, translation of final legislation or the possibility for citizens to correspond with EU institutions in the language.

At the conference of 24 May, Albert Royo of the Public Diplomacy Council of Catalonia, noted that his regional Government believes Catalan should be a full working language of the European Union.

Taken from the European Commission website.

2009). That trajectory has now levelled out, or dropped off, for reasons including the economic crisis and the enlargement of the Union.

1.6 Divergence: Welsh governance in two unions

This section is based on the presentation by Dr Ian Stafford.

The developing picture of sub-national and regional roles within Europe is often judged on political perception and sound bites. Real research into the experience of politicians, policy makers and administrators is less common. This is a key objective of the comparative

research being carried out across five European countries, reported in Chapter Three. The next paragraphs look at the early results from the field research in Wales.

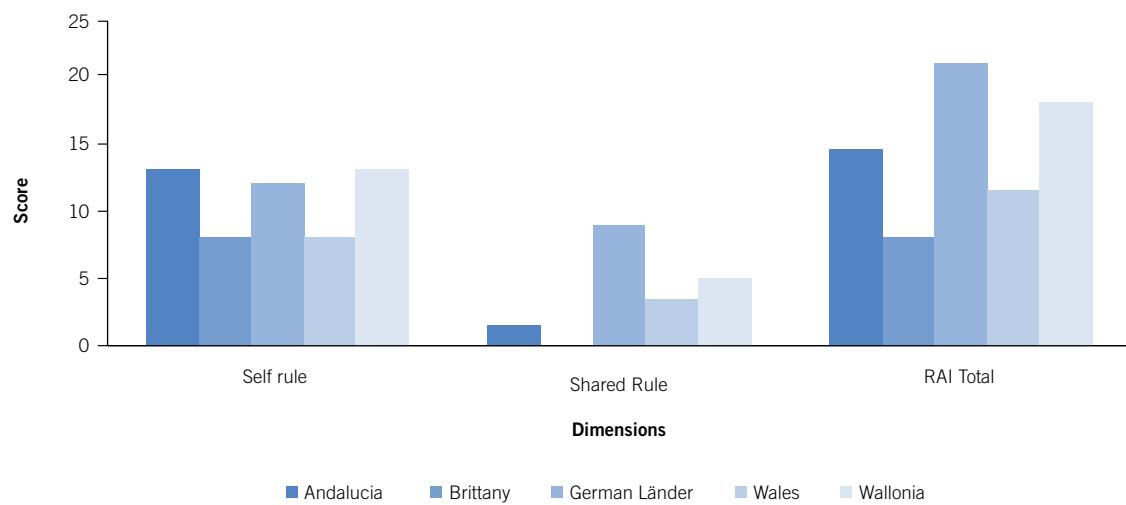
The Regional Authority Index

The relative position of Welsh devolution – in comparison to other sub-national, intermediate or regional tiers of governance – can be explored using the Regional Authority Index (RAI), developed by Hooghe, Marks and Shakel.³ The Index disaggregates regional authority into a set of dimensions for self-rule (the independence of a regional government from central domination and the scope of regional decision making) and shared rule (the capacity of a regional government to shape central decision making). (See Table 1)

Table 1: Dimensions of regional authority

| Self-rule | The authority exercised by a regional government over those who live in its territory |
|-----------------------|---|
| Institutional depth | The extent to which a regional government is autonomous rather than deconcentrated |
| Policy scope | The range of policies for which a regional government is responsible |
| Fiscal autonomy | The extent to which a regional government can independently tax its population |
| Representation | The extent to which a regional government is endowed with an independent legislature and executive |
| Shared rule | The authority exercised by a regional government or its representatives in the country as a whole |
| Law making | The extent to which regional representatives co-determine national legislation |
| Executive control | The extent to which regional representatives co-determine national policy in intergovernmental meetings |
| Fiscal control | The extent to which regional representatives co-determine the distribution of national tax revenues |
| Constitutional reform | The extent to which regional representatives co-determine constitutional change |

Figure 1: Preliminary outcomes of the first stage of fieldwork in Wales



3 Hooghe, L., Marks, G. and Schakel, A.H. (2010) *The Rise of Regional Authority: A Comparative Study of 42 Democracies* (Abingdon: Routledge)

The position of Wales within the RAI reflects the nature of the UK devolution settlement and in particular the relative weakness of Wales in terms of the fiscal dimension of self-rule and the broader limitations of shared rule (see Figure 1). Of the study group, only Brittany has less autonomy. Although it is relatively straightforward to imagine how the self-rule dimensions could increase in the short to medium term, for example, via the strengthening of the Assembly's taxation and borrowing powers, it is less clear how shared rule dimensions could shift.

These indicators can then be scored for the five case study areas and illustrated as at Table 1: **Overall RAI Scores – 5 Case Studies.**

The research project identifies the issue-areas of public finance and secondary education as two different policy fields around which much empirical work will be organised. Public finance and fiscal policy are tightly constrained at both national and supra-national level, and, as Chapter Two sets out, comprise an area where the converging effects of transnational policy instruments ought to be strong. By contrast, secondary education is an area of service delivery where there is divergence within the United Kingdom, most recently with the May 2013 announcements that devolved governments are free to choose their examination systems.

Interviews with actors in the Welsh policy community are close to completion and the conferences were held at an early stage of the analysis, so delegates heard an initial overview of the emerging key themes. Although opinions varied, the most common perspective on the economic crisis is that Wales has been able to put in place strategies appropriate to its own territory, which has strengthened the case for devolution. Interviewees did not spontaneously address European issues beyond the support provided from EU structural funds. The intra-national relationship with London was seen as far more important.

Public finance remains highly centralised in the UK, with Wales scoring very low on measures of autonomy or authority. Interest in further fiscal devolution has increased but at the time of publication, devolution has only enabled the Welsh Government to distribute a fixed block grant allocated by London. Interviewees supported moves towards devolved tax-raising powers to give the Welsh Government more ability to tailor policies to Welsh needs, and be more

accountable to the electorate. Even in this centralised domain, and notwithstanding the rules of the Stability and Growth Pact (SGP), the EU was not spontaneously offered as being a key element of the debate for increased divergence and devolution within the UK.

Secondary education has been highly devolved since 1999; the Welsh Government has promoted an agenda predicated on social justice, equity of access and provision and promoting pathways into employment. The success of this distinctive policy agenda has become a highly charged debate in Wales, and interviewees tended to focus on domestic issues, except for the potential effect of skills gaps in attracting inward investment from international companies.

The preliminary findings indicate that the policy agenda has been driven primarily by endogenous factors and UK-orientated debates. Where transnational factors have played a role, they have tended to not be explicitly focused on the European Union but on wider international benchmarking systems and pressures. Although the economic crisis and associated budget cuts were identified by all interviewees as the most important challenge facing public services in Wales, the debate is framed with reference to the UKG rather than the EU. The UK's position outside of the Eurozone and the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (the Fiscal Compact) effectively shelters Wales from enhanced European budgetary supervision. In addition, a combination of factors including the Coalition Government's 'localism' agenda and the apparent cross-party acceptance of devolution has meant that the Welsh Government has been able to continue to pursue a divergent policy agenda, partly driven by different political party agendas.

All the same, the Welsh Government has been unable simply to ignore external issues. The enhanced performance management and inspection regime introduced in secondary education, for example, whilst different from the UKG's reforms, reflects the Welsh Government's concern to raise performance and reputation internationally. As the UKG's approach to Europe becomes increasingly difficult to square with the positive, pro-European message from the Welsh Government, the European dimension might be expected to be given greater prominence in political and policy debates.

2. The Fiscal Crisis and its Impact on Regionalism

For much of the first three decades after the United Kingdom joined the European Community, regionalism was celebrated, seen as a central part of the European project. In the late 1990s, the UK abruptly moved from a high level of centralisation to asymmetric devolution. Fifteen years later, all the nations and regions of Europe must face the crisis of the Eurozone in one way or another. What, if anything, is the impact of European-level budgetary consolidation on the promise of growing autonomy or further devolution? What are the levers changing the relationships between regions and states, and who controls them? Increasingly a gap is opening up between those regions, such as Scotland and Catalonia, which are seeking financial autonomy or independence, and those, like Wales, which do not have the financial clout to follow that path.

2.1 What became of the Europe of the Regions: the European context

When the United Kingdom joined the European Community (as it then was), it was one of fifteen member states. Then it was one of the most highly centralised states in the EC, although, like several others, it contained relatively strong regional players in Wales and Scotland. After the 1997 election, the UK decentralised abruptly and by 2000 was one of the more devolved member states, with highly asymmetric models between the four countries of England, Northern Ireland, Scotland and Wales.

The countries considered today are amongst the most regionalised in the European Union: Belgium, Spain, Germany, the UK and, in some more limited respects, France. These states each possess sub-national territories directly controlling a wide range of functions, exercising

legislative or regulatory powers, raising revenues, owning assets and (in Flanders) entering into treaties with foreign countries. Those territories often exist as a result of the complex and contested history of their countries; for example Mme Mona Bras of Brittany recalled the important alliances between her region and Flanders in the fourteenth to sixteenth centuries AD. In Spain, the military nuances of the Constitution adopted in the transition to democracy in the 1970s remain an important issue.

The EU now has 28 members but these western European states are still the most regionalised. Many of the newer members from eastern Europe take a more prescriptive approach to sub-national territories and are highly centralised. The complex governance of the European Union includes an apparatus to give voice to the concerns and interests of sub-national regions, centred around the Committee of the Regions. Despite the Treaty of Lisbon, the Committee still has little power.

Some regions, particularly Scotland and Catalonia, have embarked on a different path, towards independence, rather than seeking greater sub-national autonomy within existing states; these trajectories are reported in more detail in Chapter Three. This is a profound shift and creates a marked differentiation from those regions, like Wales, which continue to prioritise the regionalised structure.

Has territorial cohesion, an integral part of the Europe 2020 programme, been side-lined by the focus on fiscal autonomy and sub-national policies? If so, the emphasis predates 2007; even before the banking crisis, the infrastructure of European governance tended to focus on economic and financial issues, with over a decade of preoccupation with sovereign creditworthiness as a public good in itself.

2.2 The constraints on regionalism

This section is based on the presentation by Professor Kenneth Dyson.

A key theme for anyone reviewing the future of independence and regionalism in Europe is how far changes in the powers, activities and ambitions of devolved administrations are a result of the economic crisis, or a result of those territories' own evolution. To put it another way, is devolution driven primarily by external factors, such as global economics, or by endogenous features such as cultural pride? Such a discussion assumes the active engagement of devolved regions with the European Union; cities and regions are viewed as seeking to build their political, administrative and fiscal capacity using European institutions and networks to help them. At the same time, there are important limitations on this activity.

First, powerful structural constraints frame and hedge what cities and regions can hope to achieve within Europe. Their histories are enshrined in basic constitutional principles and the vested interests that elites in the political and administrative centres of the state seek to protect. Thus Wales, even today, faces tight political constraints in actively engaging with Europe.

Secondly, the history of a region is fundamental to its capacity. Spatial differentiation within an informal hierarchy of European regions and cities predates the modern European state. Cities like Antwerp, Augsburg, Lucca, Lyon, and Venice served as the major historic pioneers of public-debt financing, emulated by dynastic and centralising territorial rulers. External economic imbalances and the territorial agglomeration of finance remain fundamentally important in structuring the opportunities for, and constraints on, sub-national fiscal capacity building; those imbalances empower a few regions beyond the reach of the majority.

Thirdly, Europe is itself becoming increasingly more active as the Union and its institutions drive for increasing control over member states, especially within the Eurozone where urgency comes from the requirements of making economic and monetary union (EMU) sustainable. Banking and fiscal union are helping to reframe sub-national fiscal governance across the euro-zone. British sub-national fiscal governance stands apart from the immediate demands of these euro-zone requirements, and the devolved governments of the UK have, in any case,

limited formal fiscal capacity, but Wales can learn from a closer observation of European cases.

The on-going banking and sovereign debt crisis arguably represents the most important change within the European Union over the last five years. It has seen significant effects on the sub-national territories and devolved administrations of the European Union, particularly within the Eurozone. The fiscal autonomy of sub-national regions is a core differentiator between regions, and a key issue for their governments.

2.3 Stateless nations in Europe: from regions to post-sovereignty

This section is based on the presentation by Professor Michael Keating.

How did we get here?

The first decades of the twentieth century saw mixed attitudes to Europe among minorities such as the Basque and Scottish nationalists. It was in the 1980s that a firm link was established between Europe and minority nations as the consolidation of a European political space appeared to open up new opportunities. Jacques Delors's commitment to a social Europe brought the left and the trades unions on board while the talk of subsidiarity appealed to Christian Democrats. The strengthening of Europe was presented by home rule and nationalist forces as a weakening of the old state framework and therefore good news for them.

Across regions, there were different visions of the connection between Europe and the nations. For some, such as the SNP, Europe provided an opportunity to become *independent* without the risk and dangers previously posed. Europe would guarantee market access, take care of externalities and provide goods such as regulation and eventually the currency and defence.

Other movements (sometimes the same ones) put their faith in the *Europe of the Regions*. This idea was never clearly formulated as a policy but it generally focused on the creation of a 'third level' of government within a federalising union. This put the stateless nations into the same categories as functional regions, which are different but provide some potentially powerful allies such as the

German *Länder*. The Maastricht Treaty established the Committee of the Regions, entrenched subsidiarity and allowed sub-state regions to represent their state (but not themselves) in the Council of Ministers.

A third vision is of a *post-sovereign Europe* in which national sovereignty would dissolve altogether into a Europe of the Peoples or Europe of the Nations. This appealed to parties that could be considered radical nationalists, such as Plaid Cymru and *Esquerra Republicana de Catalunya*. The intellectual basis of this idea is that nobody in Europe is sovereign; rather sovereignty is divided and shared. Part of the appeal of post-sovereignty is that it bypasses many of the devolution debates, and so has gained traction in places where there was a historic tradition of mixed sovereignty and pactism. Ideas of multi-level authority and negotiation come more easily within some political traditions than others.

As noted in Chapter One, there is some evidence of the link between national identity, comfort with multi-level government and support for Europe. The idea of Europe has had a mixed appeal for nationalists, depending on the political complexion of nationality movements and local traditions. Thus nationalists whose basic values are represented within the European project, like Christian and Social Democrats and Liberals, embrace it. Others, based on right-wing populism, such as Italy's *Lega Nord* and radical Flemish and nationalists, have opposed integration.

The decline of regionalism and resistance to other strategies

The concept of the Europe of the Regions, influential for so long, has, at best, reached a plateau. The Committee of the Regions has been a disappointment to many regional actors as it has never become an effective third chamber in European Union federalism: it is too heterogeneous, focused on consensus rather than specific policy interventions and only has advisory powers.

Desmond Clifford, Head of the Welsh Government's EU office within the Office of the First Minister, suggested several reasons for this loss of momentum, of which the economic crisis is foremost. Secondly, there is less interest in constitutional issues given the challenges of austerity. Third, public opinion suggests that the changes in the Lisbon Treaty are as far as the citizens of Europe are prepared to travel towards integration. The fourth important challenge is the changes in the

'regional community'. Ten years ago, the regions were a strong network with many common interests. As some regions move towards independence the dynamics and relationships for all other regions change. Enlargement has also diluted the voice of strong, legislative regions.

The final contributing factor in the decline of regionalism is the UK's nervousness about membership of the EU. It is clear that 'more Europe' is not a feasible answer to UK problems or a source of glue between its four constituent countries.

Professor Keating pointed out that nation-states have not been prepared to embrace post-sovereignty. The Spanish political and judicial establishment refuses to give special recognition to internal nations while the UK Government has insisted that the Scottish referendum be a straight choice between independence and the union.

A further complication in the Scottish case is the prospect of a referendum on UK membership of the European Union in 2017. Judging from recent opinion polls, there is a real possibility that England could vote to leave the EU and Scotland to stay in. Moreover, the choice could be between effectively withdrawing partially, or withdrawing entirely. Already there is a dispute over the UK Government's intention to withdraw from the Area of Freedom Security and Justice (and then opt back in to some of its provisions). So the only way for Scotland to remain fully within the EU may be to vote for independence.

What now?

There is no European framework for post-sovereignty. Only member states are represented in the Council of Ministers (albeit with some regional input, where matters of regional competence are at stake) and in the increasingly important European Council. Only states have access to the full range of consultative committees and are represented in the European Central Bank and Ecofin (council of finance ministers).

Therefore, as nation-states resist post-sovereignty and the dreams of a regionalised Europe wither, there has been a move away from Europe of the Regions and post-sovereignty, back to independence-in-Europe., Plaid Cymru is part of this trend. The SNP has united the old gradualists and fundamentalists behind independence. *Convèrgencia i Unió*, heirs to a long Catalan tradition of maximum home rule, has moved towards the declaration of sovereignty; its diplomatic leadership expressed their frustration with both

domestic and European responses to requests for more autonomy (see Chapter Three). In Flanders, the NVA, an openly pro-independence party, has an electoral plurality. Yet, when it comes to specifying what independence means, all these parties have reverted to what has come to be known in Scotland as 'independence-lite' within Europe, keeping sterling and an array of regulatory agencies. The talk in Belgium is of 'confederalism'.

So Europe, which at one time seemed to defuse independence demands and provide a new outlet for self-determination, can actually reinforce the nation-state.

These contradictions highlight the poverty of constitutional thinking in Europe and the need for stateless nations such as Wales to define clearly for themselves what they want, what is achievable and their path to its delivery.

2.4 Sub-national autonomy: what the fiscal crisis implies

This section is based on the presentation by Professor Kenneth Dyson.

Why sub-national fiscal capacity matters

The original founders of the European Union cared about the fiscal capacity of all parts of Europe. Much has changed since then, but the ambitions to challenge inequity and promote prosperity throughout the Union remain fundamental. Thus fiscal capacity matters, not only at the level of national economies and currency unions but for sub-national governments.

The Treaty of Rome: the opening paragraphs of the Treaty state that its signatories are:

"... anxious to strengthen the unity of their economies and to ensure their harmonious development by reducing the differences existing between the various regions and the backwardness of the less favoured regions."

Beyond identity and political legitimacy, sub-national territories need the capacity to frame and support the conditions for sustainable real GDP growth and to deliver effective infrastructural and social investment. Effective

capacity is vital to successful competition. Fiscal capacity means having access to a wide tax base, some freedom in setting tax rates and borrowing capacity; it is essential if sub-national governments are to have access to and secure confidence in international bond markets. Their prize is ample liquidity and lower interest rates for borrowing than have been traditionally available through domestic banks. Fiscal capacity is essential for sub-national credit ratings, another key competitive ranking.

Conversely, sub-national fiscal capacity matters to central and federal governments; a poorly managed and debt-ridden region will affect sovereign creditworthiness, the ability to comply with EU fiscal rules and commitments and to avoid financial sanctions under the excessive deficit procedures. Moreover, failures of sub-national fiscal capacity building and compliance heighten risks of territorial bail-outs, with the result that sub-national liabilities are added to national liabilities. This problem was acknowledged pre-2007, for example in addressing the debts of Berlin, but has become more visible since the crisis.

So, sub-national fiscal capacity helps shape the resources and power available to devolved governments. A key question is *capacity to do what?* For national governments, the EU and the Troika, the answer has been bound up with the ability to comply with firm fiscal rules in order to secure long term debt sustainability. For the devolved administrations, capacity is needed to promote productive investment, deliver services and strengthen regional balance sheets.

What fiscal capacity means

Two different axes of sub-national fiscal capacity have been identified as key to considering the position of devolved regions: the formal and the material. (These provide an important framework in considering the practical commentaries of Mr Holtham and Mr Silk in Chapter One.)

Formal fiscal capacity is measured by a range of hard indicators. These include the extent of a territory's autonomy in setting rates across a range of taxes such as business rates, property and environmental taxes and even some part of income tax: how much does the region control its revenue? Another indicator is the extent to which territories are dependent on central grants, the conditionality attached to such resources and how 'hard' or 'soft' the budgetary constraints are. In the other direction, reflecting the 'shared rule' axis of the RAI, an

important measure is how far sub-national administrations influence the national distribution of resources.

Crucial borrowing freedom (for investment in infrastructure, education, research etc) is another indicator of autonomy, measured by legal powers, limits on the uses of borrowed resources, requirements for central authorisation, external rules constraining borrowing and access to sub-national public banks and enterprises for debt financing.

A key measure of formal fiscal capacity is the generosity of horizontal and vertical fiscal transfer systems in supporting sub-national regions; how much the resources of different regions are equalised across the nation. Such transfer systems provide 'system strength' and predictability to public finances, while large but indebted regions such as Berlin and Lazio potentially place greater stresses on their national public finances. System strength helps boost international credit ratings but can make sub-national administrations with little 'stand-alone' fiscal capacity (like Wales) look stronger than they are.

Material/fiscal capacity must not be confused with the formal structures. The material reality relates to a territory's economic capacity to generate its own tax revenues, influence fiscal decisions by the national government, shape the terms of fiscal equalisation between territories and access ample, low-cost market credit. For instance, Berlin benefits in terms of its credit ratings from system strength through generous fiscal equalisation across Germany but lacks the 'stand-alone' fiscal capacity of Bavaria.

'Stand-alone' fiscal capacity is the critical material factor. It is associated with buoyant and predictable 'own-tax' revenues, along with efficient tax collection and reflects a high ratio of investment to revenue, strengthening sub-national balance sheets through better-quality asset building and improving future tax capacity. It is linked to high sub-national administrative capacity in managing infrastructure and social investment and underpinned by

political and administrative skills in networking alongside inclusive political processes that sustain solidarity and identity building. Moreover, 'stand-alone' sub-national fiscal capacity stems from the strength, diversity, and resilience of the sub-national economic structure to asymmetric shocks. Characteristically, it correlates with a strong presence in science-based manufacturing and in the 'knowledge-based' economy and with the headquarters of leading companies in these sectors.

The spread of 'stand-alone' fiscal capacity reflects underlying structural imbalances within domestic, European and international economies. Problems with 'stand-alone' capacity have been highlighted in the ongoing debt problems of Calabria, Lazio, Sicily, Rome and Naples, in the highly indebted German *Länder* of Berlin, Bremen, Saarland, Sachsen-Anhalt, and Schleswig-Holstein, and in Northern Ireland and Wales. Sub-national status and power within the informal hierarchy of European cities and regions are deeply conditioned by 'stand-alone' fiscal capacity.

Combining the formal and material dimensions of sub-national fiscal capacity yields an analysis of power relationships and a hierarchy of autonomy between different regions. Figure 2 captures the more extreme cases. It points to the weak fiscal power and negotiating positions of Northern Ireland and Wales; to London as under-performing in relation to potential sub-national fiscal power; to the paradox of Berlin, whose sub-national fiscal capacity is bolstered by system strength; and to the power optimisers like the Basque Country and Bavaria. The vast majority of Europe's cities and regions occupy more complex, intermediate positions of relative power.

Pressures for change in sub-national fiscal capacity and the search for autonomy

The financial crises since 2007 have led to a major re-framing of sub-national fiscal governance as state

Figure 2: Comparisons of regions by the formal and material measures of fiscal autonomy

| Formal measures of fiscal autonomy | | | |
|------------------------------------|------|---------------------------|---------------------------|
| Material measures of autonomy | | | |
| | Low | High | |
| | High | London | Basque Country Bavaria |
| | Low | Wales Northern Ireland | Berlin |

governments have seen the activities of devolved administrations as a potential risk to sovereign creditworthiness. In the process of addressing the sovereign debt crisis, sub-national fiscal capacity has become reframed as a problem of compliance with firm nominal fiscal rules, and other dimensions of material capacity have been given less attention. This has led to increasing tension between the Troika and national governments on the one hand, and sub-national administrations on the other, in three-cornered debates between technocratic demands, autonomous control of local resources and arguments about fiscal justice and territorial equity.

Sub-national budgetary constraints have been hardened by the Fiscal Compact (signed by all EU member states except the Czech Republic and the United Kingdom). Financial markets have shown that they can and will discipline sub-national governments through bond yields and credit ratings. The crises also brought to light poor financial accountability, corruption and waste at sub-national level. Taken together these have enabled territories with ‘stand-alone’ fiscal competence to argue that they should have more autonomy within a regime of greater accountability and transparency. The corollary is that other administrations should be more tightly disciplined, further opening the gap between the regions.

The re-centralisation of (most) European states after 2007 has been reinforced by intensified surveillance by international credit markets, the EU and international agencies. Peer reviews of states by international institutions have given more attention to sub-national fiscal governance, including examining the quality of territories’ public finances. The 2009 OECD Economic Survey for instance stressed the adverse economic effects of fiscal equalisation mechanisms in Belgium. In its view, they diminished the incentives for Wallonia to develop its own growth potential and fostered a vested interest in retention of large-scale transfers. The 2010 OECD Economic Survey of Spain called for tougher fiscal rules to ensure that regional governments were required to build up substantial surpluses in periods when GDP growth was above national potential.

This international re-framing process has had potentially powerful domestic ramifications in shifting the domestic battlefield of ideas about sub-national fiscal governance. This has sat alongside strengthening narratives about globalisation and Europeanisation which focused on the need for fiscal arrangements to lock in discipline. In this context the Stability and Growth Pact (SGP), to which

the United Kingdom is a signatory, is important as it has precipitated debates about responsibility for excessive debts. More intensive monitoring has induced sub-national governments to shift their focus to compliance with macro-economic stabilisation objectives, rather than more locally determined outcomes.

More than the interventions of supra-national and public agencies, the global financial markets have had the most powerful impact on sub-national fiscal governance. The markets have shown that they can and will inflict more direct and immediate pain by sapping investor confidence through widening yield spreads on sub-national bonds and through downgrading credit ratings. In consequence, administrations at all levels of governance have focused on regaining market credibility, particularly through ensuring and demonstrating rectitude by compliance with formal measures of accountability and competence.

Results: reforms in sub-national fiscal governance

Two broad patterns can be seen in reforms to sub-national fiscal governance. Firstly, reforms are intended to enable states to better deliver on the ‘virtuous’ fiscal policies required by financial markets and support to sovereign creditworthiness. Sub-national fiscal capacity building has become about compliance with both hierarchical fiscal rules and market expectations. Secondly, fiscal transfer systems have been redesigned to strengthen incentives to pursue sub-national ‘stand-alone’ fiscal capacity. The umbrella of system strength, relying on financial equalisation between territories, now leaks. This approach is a marked contrast to the established principles of fiscal justice and territorial equity which have long driven Europe-wide and intra-state fiscal transfers.

The complexity of these debates and the impact on devolved administrations were explored at both events. Delegates debated the tensions between ‘moral hazard’ and the demands for formal compliance, the search for stand-alone fiscal capacity and the related drives for greater autonomy, and the historic ambitions of equity and continent-wide prosperity. The expectations of tax devolution in Wales must be seen in the context of demands (by London and Scotland) to move away from equalisation across the UK, which might further reduce the resources available in Wales and hence undermine its steps towards fiscal autonomy.

3. Experiences of Devolution in Comparator Countries and Regions

The Leverhulme Trust International Network brings together scholars from five countries to consider the convergence and divergence of devolved administrations in Western Europe. The conference of May 24 heard from scholars in those countries, who gave presentations on the history and current administration of devolution, with some insight into possible future developments. The roundtable that afternoon also heard presentations from people within those devolved administrations, giving a more activist and political perspective on events. This chapter looks at the background to the research and its key questions. It then reports from the four non-UK countries – Belgium, France, Germany and Spain – bringing together both the scholarly presentations and the activist commentary and incorporating answers to questions posed by delegates. Finally, it reviews the European Commission presence in Cardiff.

3.1 Introduction and background

In comparing the different experiences of sub-national territories within the European Union, three particular points should be borne in mind: history, the speed of current events and commonalities of sub-national intervention.

The complexity of European history is reflected in all areas of multi-level governance. Speakers referred to events from the sixth to the twentieth centuries AD as relevant to governance configurations today. This, as the review of the impact of the fiscal crisis makes clear, extends to the specificities of cities as places of trade, and the resulting uneven fiscal autonomy. The similarity of German *Länder* has specific roots but even that co-operative federalism is being strained not just across the old East-West

boundaries but between Berlin and other regions on the back of different histories of debt. At the other end of the spectrum, Belgium is a complex, rapidly evolving blend of language, geography and economies held in a delicate cradle of pacts. In between, the autonomous communities of Spain have a proud history of difference and diverging political futures dependent on their fiscal capacity.

The presentations also highlighted the speed of change within sub-national governance in Europe. In May 2013 alone, the month of the two conferences, many of these countries saw significant steps (or hesitations) affecting their sub-national territories. The most dramatic events are in Spain and the United Kingdom. The Government of Catalonia has sought to mount a referendum on independence, which on 8 May was ruled unlawful by the Madrid Constitutional Court. In the United Kingdom, the bill for a referendum on EU membership was announced, while announcements from education to aggregate extraction have differentiated Welsh public administration from that of other parts of the UK.

Despite these differences and divergences, there are striking similarities across regions, particularly in the realm of para-diplomacy. Almost all regions, and all those represented at the conferences, have a representative presence in Brussels intended both to keep regional actors informed and to lobby for their interests within European governance. They have European teams within their own administrations, often supporting specific political committees, and they participate in a range of relevant sub-European networks on relevant matters. The more effective regions (in terms of policy influence, access to resources and autonomy) practice ‘venue-shopping’ with a range of tools in place to find the most appropriate forum to achieve their ambitions.

Almost all speakers highlighted the importance and efficacy of informal as well as formal activity within the European constellation. In considering territorial activism through the Committee of the Regions, Mr David Hughes commented on the value of Committee Members delegated to lead on an opinion making early approaches to the Commission and using informal networks to ensure that the opinion is as well-informed and apposite as possible. In most cases lobbying and policy pressure are directed towards the Executive rather than the European Parliament; hence the member-state government remains a key intermediary. Experience in continental Europe also reflected the points made in the Welsh fieldwork described in Chapter One: maintaining effective relationships with the national government is crucial. It is when those relationships fail that regions begin to explore the possibilities of independence.

Speakers reviewed changes and divergence within their countries, from the restriction of GMO trials in Wallonia to the management of structural funds in France. The trends emerging from the presentations suggest that the more autonomy a sub-national government achieves, the more policy divergence emerges from endogenous factors. These factors may include party politics, historical commitments, language or even physical geography. In summary, the presentations suggest that divergence begets divergence, even within the tightening straitjacket of fiscal control.

3.2 The research: convergence or divergence?

This section is based on the presentation by Professor Alistair Cole.

The research project brings together scholars who are interested in the comparative dynamics of territorial governance. The network covers five European countries: Belgium, France, Germany, Spain and the United Kingdom.

The core (comparative) research question underpinning the project might be formulated as follows: is the contemporary European State (subject to powerful and converging transnational economic, intellectual and institutional pressures) driven to enforce new forms of territorial convergence? Or does multi-level governance

(defined as a complex system of multiple legal orders based on variable centre-periphery dynamics, domestic-international tensions and reconfigured state-society relations) embed processes of divergence and territorial differentiation? This significant research theme gets to the heart of the contemporary European State through a focus on the interplay between territorial capacities, domestic veto players and exogenous constraints.

The first part of the research question suggests a convergence hypothesis. Across Europe devolved or regional governments are facing the reality of international economic monitoring, enhanced European budgetary supervision and reinvigorated central government control over sub-state governments. Chapter Two looked in detail at the ways in which the expectations of the Troika and the international banks can be viewed as a form of top-down hard convergence involving specific criteria, intrusive monitoring and sanctions for non-compliance. The external convergence perspective highlights increasing oversight by the EU into internal budgetary affairs, including local government and welfare expenditures. These debates about convergence and divergence are usually framed in relation to the capacity of nation-states to pursue distinctive policies, but they are also increasingly relevant to inter-governmental relations, territorial administration and local, regional and devolved government.

The second part of the research question implies that the territorial capacity building project, represented by devolution in the UK and other forms of decentralisation in Europe, is sufficiently institutionally and politically embedded to be able to accommodate, filter and reframe exogenous pressures – or simply ignore them on the basis that the dynamics of territorial capacity building are essentially endogenous. If the evolution of sub-national governance cannot be totally abstracted from the direct effects of global and European pressures, the drivers of territorial dynamics are essentially domestic. The approach focuses upon the factors that facilitate or constrain divergence and convergence including the political capacity of devolved administrations, the relative strength of territorially focused interest groups, the nature of multi-level party systems and public opinion and the nature of intergovernmental relations.

There is no automatic causal relationship between austerity politics and institutional or expenditure reform. Core members of the policy community might recognise

the need for more sustainable financial arrangements for local and regional governance and might lament the inflationary effects of institutional layering, but economic arguments are not always emphasised over constitutional and political ones. The case of Wales is an obvious case in point: the successful referendum of March 2011 in favour of legislative powers occurred in the depths of severe economic downturn.

These countervailing pressures (of convergence and capacity) come together best in those hybrid regions that are fiscal ‘debtors’ yet have a distinctive and developed territorial capacity. The research network has identified five such regions – Wallonia, Andalucia, Wales, Brittany and Saxony – in our five states that cover the range of logical possibilities for comparison: two federal states (Belgium and Germany), a federation in all but name (Spain), a predominantly unitary state modified by forms of asymmetrical devolution (United Kingdom) and a decentralised but still unitary state (France). Representatives of Flanders and Catalonia, both stronger regions, spoke at the conference on 24 May and their observations are incorporated below and reflected where relevant throughout this booklet. Empirical research has started in Wales and preliminary findings are included in Chapter Two.

3.3 Belgium's European glue

This section is based on the presentations by Professor Christian de Visscher and Mr Geert de Proost.

Professor de Visscher outlined the relationship between the territories and communities making up the state of Belgium. In Belgium, as in other federal or even unitary States, regions try to redefine their constitutional status, to reinforce their autonomy, to promote their identity. Do these efforts lead to new ways of doing policy in Belgium and to new forms of territorial governance? Europeanisation, and indeed other pressures on policy, must be seen in the real circumstances of people as political actors who refine policy tools to their own perceptions. Europeanisation does not lead inevitably towards convergence, though there are strong pressures towards conformity. The Belgium case demonstrates above all that a heavily asymmetrical political structure and divergence in political culture can hamper performance in public services across regions within a state.

Some key features of the structure of Belgian governance

The current system, established by 1970, is a compromise between the regions. Two different types of federated entity were created: three Communities (French, Flemish and German speaking) are competent for cultural, social and educational matters. Three Regions (Wallonia, Flanders and Brussels Capital) are responsible for economic and regional development, environmental protection, public transport and housing. The state is bipolar and asymmetric. The Flemish Region and Community, merged in 1980, are at one pole, with the Walloon Region and French Community at the other. Brussels Capital has almost equivalent regional status and is 85% French-speaking, but wholly enclosed by Dutch-speaking areas.

There is no hierarchy between the layers of governance in Belgium: any decision made by an entity in the area in which it has competence has the force of federal law, up to and including international treaties. The main, indeed almost only area, in which the central authority limits regions and communities is the key constraint on their authority to borrow, alongside the imposition of some procedural matters. There are formal, institutionalised mechanisms to foster coordination, such as intergovernmental conferences and cooperation agreements, but the central authority cannot force the Regions and Communities to cooperate, the main exception being when several entities have to work together in order to comply with international treaties. There are also no longer any national or federal political parties as the previous ‘traditional’ parties have split into uni-lingual parties answerable only to their respective communities. Paradoxically, in such extreme fragmentation, political parties have become more important in brokering pacts between the different actors and levels of governance.

The people and Governments of Belgium remain pro-European; without that context, there would not be enough commonality to hold the parts of the federation together.

Convergence or divergence between communities and regions

Three policy areas highlight the impact of autonomy and devolution in Belgium. *Education*, highly devolved since 1988, has seen an ‘enabling agenda’ emerge in Flanders while the French community retains the national policy

legacy. These differences are linked to party political aims and so policy divergence driven by structural factors is heightened by policy actors taking advantage of opportunities.

In the fields of *genetic modification and mobile telephony*, competence is shared between the federal level (customer protection and public health) and the regional level (environment). The challenges of policy coordination have stressed relationships between government entities. Flanders promotes GMO and mobile phones, framing the debate in terms of scientific progress and economic opportunity and only restricts development or use when required to by the EU. Wallonia, by contrast, has addressed environmental and public health issues and has issued restrictive decrees about mobile phones and GMO trials.

European supervision has led to tighter controls on *fiscal policy* options, and reduction of public debt is a hot political issue. In order to ensure the existence and stability of the European economic and monetary union in Belgium, the federal authority maintains control of monetary, price, competition, income and social security policies. Sub-federal governments are restricted in tax-raising and remain dependent on the federal government for about 75% of expenditure. Since 1999, macro-budgetary policies have also been strictly controlled, so that regions and communities are not free to fix their own budgetary balances.

Public administration: the importance of policy entrepreneurs in divergence

Public administration and service delivery is highly structured around ministers and their personal advisers. Despite the politicisation of administration, tenured career is still a core principle of the civil service. Flanders is more committed to the New Public Management whereas Wallonia has moved towards modernisation since 2000 driven by economic investment and EU funding.

A key differentiator in this context has been the leadership of Luc Van den Bossche. As Minister in the Flemish Government in the 1990s he launched administrative reform and used the experience in reforming the federal Government when he became Minister for the Civil Service in 1999. No equivalent policy entrepreneur has emerged in the French-speaking region.

The role of Europeanisation

Europeanisation contributes to the transfer of policy options or instruments, but these tools must not be perceived as disembodied. Political actors and pressure groups redefine or adapt the tools to their own perceptions of public problems. Moreover, the effects of those instruments may vary strongly from one sector to another. Fiscal policy excepted, Europeanisation does not lead inevitably towards convergence.

Belgium is composed of several territories with their own historical rights, and united by a pact. Pacts are formal or informal decision-making processes in Belgium, when difficult crises are to be solved or major consensus to be concluded. Pacts are not only historical events, but also processes through which union is regularly re-negotiated.

From a symbolic point of view (in terms of recognition of the regions' differences) as well as from a pragmatic point of view (in terms of public action), the main challenge for Belgium and its regions today, is the efficacy of their public policies. The heavily asymmetrical political structure and divergence in political culture hampers performance in public services.

The Flemish diplomat's perspective

Mr Geert de Proost is the Representative of the Flemish Government in the UK. He reminded delegates that the economy of Flanders is based on the 80% of Belgian foreign trade passing through it, giving the region a key global role. This is reflected in an ambitious economic strategy which relies on investment in and internationalisation of trade, business and education. Therefore Flanders looks for trans-national partnerships with similar countries with common interests and competencies. Wales is important to Flanders because it has key similarities, it is active in European networks, has legislative powers to make its case and it is seeking to learn from economic best practise.

For Flanders, the economic crisis has had little impact on trans-national relations. Economic austerity has weighed considerably less than in the UK. Belgium learnt lessons from its huge public debts in the 1970s and 1980s, and the Flemish budget has always been balanced.

Europe is indeed a key element of the 'glue' holding Belgium together, although it is not the only factor. The EU provides a safer haven for devolution; the subsidiarity

debates show that the EU recognises that we all live in a multi-layered context, while the cohesion funds stimulate inter-regional links, governmental capacity and sharing of best practice. Although the Fiscal Compact will have some effect on national and regional governments with a risk of renationalising some devolved budget policies, the federal/regional model is well established with a clear expectation of a balanced and proportionate contribution from all levels of government.

3.4 Multi-level governance in France

This section is based on the presentations by Professor Romain Pasquier and Mme Mona Bras.

Centralised France: decentralised administration

France is a highly centralised country: *la république une et indivisible*. At the same time it is a highly complex mosaic of governance with 26 regions, 101 départements, 2599 intercommunal public corporations and 36700 communes, all of which have general powers of competence. The process of the development of new political strategies and networks by sub-national players and their new alliances between themselves and with the European Commission challenges centre/periphery relations in France and the traditional domination of the central state. It can cause a significant redistribution of power among domestic actors and result in institutional change. Are we therefore witnessing a Europeanisation of French regions? To what extent does the EU empower French regions?

French regions have experienced three dimensions of Europeanisation: the regionalisation of economic development policies (*public policy*); the development of new regional strategies (*politics*); and the evolution of the constitutional and institutional structures of French multilevel governance (*the polity*).

The policy dimension and the regionalisation of economic development policies

The EU has provided an important source of funding for local and regional projects. As state-led territorial planning policies have declined, the EU structural funds have become more important to the development of the French regions. Historically the French Government

has managed to ensure that the whole country is covered by those funds which provide new opportunities for local and regional authorities, particularly the most ambitious of them such as Brittany. European Union pressures on public policy are substantial. EU funding is accompanied by intensive and intrusive monitoring. Regions and localities have to comply with overly-onerous EU directives, for example on public procurement. Meanwhile, central Government has sought to keep a tight rein on regional-EU interactions, imposing details of project management and controlling the key policy instruments. The situation is still changing; it is likely that the regions will be confirmed as managing authorities for EU structural funds in the 2014–2020 period.

The political dimension and new regional strategies

The European Union has supported para-diplomacy strategies by regions, leading to representative offices in Brussels, liaison missions and membership of regional networks. The activity varies between regions; Brittany for example has a real strategy of projection and influence while other regions remain at the level of information gathering. The European repertoires of the French regions depend on several factors: the framework of exchange among political, economic, and cultural elites; the relations of cooperation or competition of regional level political institutions with both national and local institutions and with relevant interest groups; and the strategy selected by regional leaders concerning relations with European integration and institutions.

The polity dimension: evolving French multi-level governance or tensions around the decentralised Jacobin state

Despite the development of multi-level governance, facilitated by the EU, the key structures of French decentralisation have not changed. The principle that any territorial level cannot be hierarchically superior to any other has been maintained. The institutional design of the French decentralisation and the regional map remained unchanged. In 2012, the incoming Ayrault Government proposed granting new regulatory powers to France's 26 Regions and placing local and regional authorities on a firmer financial basis by creating a public-owned Local Authority Bank. After a year of negotiations, the reform is now delayed and seems to be moving away from its initial objectives.

Proposals for change at government or regional level, or EU cohesion policies, have not affected the key territorial lobby of the *départements*. French senators, comprising the country's upper House, represent the *départements* and the rural municipalities. Since 1969 and Général de Gaulle's referendum on regionalisation, the French Senate has been opposed to the regionalisation of decentralisation. Faced with this strong local opposition, the regions have been weak and often divided. The EU cohesion policy and its resources for the regions have not altered this domestic equilibrium.

Conclusion

Europeanisation has accompanied major institutional change in France, though the French model of territorial administration has proved resistant in some key respects. Some French regions and cities are more Europeanised than others, even within the *république indivisible*, based on a range of complex factors including economic and organisational resources, history and culture, socialisation and regional leadership.

The regional politician's view

Mme Bras is an elected representative of the Democratic Breton Union (Union Démocratique Bretonne – UDB) sitting on the Brittany Regional Council. She spoke in French, though she would have preferred Breton; France is not a country with a single language, any more than the United Kingdom or Spain. She also pointed out that she was the only woman speaking from the platform, reminding delegates of the diversity of European governance.

The Bretons are originally boat people, who arrived from Wales in the sixth and seventh centuries AD. There are many symbols of Welshness in Brittany, such as place names. Bretons are proud to be standing alongside Catalonia and other European regions. Such places have been an inspiration in the Breton journey. European regions matter because they break down the hegemony of powerful states. Crossing state boundaries and creating links between regions is therefore an important activity. Flanders, too, has a close historical relationship with Brittany, dating back to fourteenth century alliances intended to limit the growing powers of the nation-state. Both are maritime powers, and are even related by marriage through links forged in those years.

Where other regions are evolving towards autonomy and independence, Brittany is ignored by Paris, which sets the region apart. Even today, the Government is not fulfilling election promises: the establishment of a specific Ministry of the Sea would be a major opportunity for Lorient. Furthermore, despite the on-going changes, regional control of EU structural funds is still partial and limited. The changes in decentralisation currently being legislated will not help rural regions such as Brittany or Alsace which are seeking additional autonomy, as it is focused on the big cities of Lyons, Marseilles and Paris.

There are three key points to be recognised about Brittany. Firstly, the Bretons have a high participation rate in EU elections. Secondly, the Breton language is at risk of extinction, and the EU is seen as a route to protection. And thirdly, President Hollande would not have been elected without Brittany.

Therefore more Europeanisation is seen as a protection for Brittany and the Breton language, and the region looks to the EU as an ally. Bretons want more devolution but no longer believe this will be achieved through the traditional French parties, and are turning towards regional parties and representation.

3.5 Multi-level governance in Germany

This section is based on the presentation by Professor Arthur Benz.

In federal and regionalised states, European policies impact on both the central government and the regional level. Europeanisation has changed the internal governance of regions, but also their established relations with the central government. The emerging multilevel structures are still in flux, and are shaped by continuous struggles for power and conflicts of interests.

German co-operative federalism and Europeanisation of the *Länder*

Consistent with the model of Germany's co-operative federalism, the *Länder* were involved early on in informal procedures relating to European Union matters. There have been significant institutional changes over the last 30 years, however. In order to increase their capacities to deal with European policies, parliaments of the

German *Länder* set up European Affairs Committees. The executives organised special departments responsible for European policies, and installed observers and bureaus in Brussels. The upper house of the federal legislature representing *Länder* governments, the *Bundesrat*, introduced a special committee.

Beyond that, para-diplomacy of *Länder* is meant to deal with information on policy-making at the European level, and supports lobbying for *Länder* interests. As in other countries, the *Länder* governments have used different channels of influence with varying intensity, but in effect, the *Länder* mainly rely on their power via the *Bundesrat* and on informal relations with the Commission. For the *Bundesrat* to issue an opinion binding the federal representatives in the council, the *Länder* governments have to find an agreement and speak with one voice. But in view of their divergent interests, they tend to avoid this approach. Informal mechanisms are therefore crucial: *Länder* try to coordinate their positions in intergovernmental conferences among their ministers and in meetings with the federal Government. At the European level they search for coordinated action with regions in other member states either by using the Committee of the Regions or their regional networks. This way the *Länder* governments avoid unintended effects of joint decision-making in European multi-level governance which occur when they tie the hands of federal representatives. These efforts focus on the executive institutions, and rarely interact with the European Parliament. However the Parliament is getting stronger and *Länder* interaction with its Committees will evolve.

Thus Europeanisation has induced significant changes to German federalism and has linked the *Länder* level to European governance. These changes prove that governments learned to work in a new context, but they also reflect the historic development of German federalism. Well before public debates draw attention to the centralizing effects of European integration, *Länder* governments had responded to the challenges they had to face and developed approaches to defend their strong position in German cooperative federalism within European multi-level governance. For this reason, German *Länder* hardly demanded more autonomy in a ‘Europe of the Regions’; right from the beginning their strategies aimed at a ‘Europe *with* the Regions’.

Distributive conflicts and the impact of the fiscal crisis

In general, those European policies primarily affecting the regions always raised distributive conflicts between *Länder* governments because these policies aimed at coping with regional disparities. During the Euro crisis, the *Länder* governments had little influence on decisions. Crisis management was dominated by central Government, while the *Länder* have not adopted a coordinated and coherent position. The new federal and regional regime for debt control and budget coordination was introduced after the crisis surfaced in 2009 and then transferred to the European Union.

Fiscal coordination mechanisms in the EU are broadly based on German models, but are implemented within Germany in a particular way. The procedures for debt management are less strict within Germany but they are part of a larger package dealing with a range of other incentives and sanctions.

The impact of crisis management within Germany reflects the internal issues of fiscal equalisation set out in Chapter Two. Some German *Länder* are in a difficult fiscal and economic situation whereas other *Länder* governments have achieved balanced budgets. These divergent fiscal situations have intensified conflicts on intergovernmental fiscal relations in Germany, and also affect interests in European policies.

In the 1990s German *Länder* had privileged access to state banks, and the resulting debt is now a liability; a similar phenomenon can be seen in Spain. This history has implications for sub-national fiscal autonomy, raising issues of governance capacity and material resources. Thus in Germany, the enhanced budgetary controls over the *Länder* were a price to be paid for the Fiscal Compact and their ability to jointly issue bonds and alleviate borrowing costs. The German Finance Minister explicitly ruled out transferring such a model to the European scale, effectively sanctioning solidarity on one level (that of the nation state) while ruling it out across the European Union as a whole. Germany generally does not expect European federalism to look like German federalism, and considers less virtuous, generally southern European countries, with high levels of scepticism.

Risks of fragmentation and informalisation

Responses to the fiscal crisis have led to further erosion of federal–*Länder* coordination in regional policy and to individual *Länder* governments tending to go their own way to Europe, bypassing the federal level. The vertical imbalance of power, with tight control of regional budgets, has reinforced centralist trends. The horizontal imbalances offer advantages for strong *Länder*, but with correlated risks for weaker regions, particularly those that have not achieved, and are unlikely to achieve, 'stand-alone' material fiscal capacity.

These strategies are risky for the *Länder* governments and jeopardise the role of the German regions in Europe. On the one hand, the European Commission can govern divided *Länder* from above, and the federal Government can ignore positions of individual *Länder*. Therefore it is far from certain that *Länder* governments going their own way can succeed in getting what they want. On the other hand, divisions among regional governments can cause an erosion of a 'Europe with the Regions'. Centralising trends fostered during the Euro crisis can be reinforced by strategies of *Länder* government following their own interests. Furthermore, the legitimacy of regions in Europe might suffer from an increasing informalisation of multilevel governance. The fragmentation of the regional level in Germany, despite its institutions of cooperative federalism, threatens the prospects of a regionalised Europe.

3.6 The EU and the Spanish autonomous communities: from carrot to stick?

This section is based on the presentations by Professor Jean-Baptiste Harguindéguy and Sr Albert Royo.

The Spanish regions and Europe: a 30 year love affair
 Spain's integration into European institutions accompanied the country's acceptance into western democracies after 40 years of isolation and dictatorship. It was also synonymous with and key to economic modernisation in a country with the lowest GDP per capita in western Europe. Spanish opinion polls have consistently showed positive support for the EU, as high as 68% in 2010, though its popularity does not rest on knowledge of European institutions, but more on identification of the

Union with democratisation and the major resources it has drawn into Spain.

The core tension between centralisation and decentralisation is particularly high in Spain, and is closely connected to party politics as right-wing governments seek greater national control. Spain's multilevel governance is therefore a highly asymmetric form of quasi-federalism. The EU has favoured such decentralisation through its political processes and distribution of resources.

Regional politicians, especially in the Basque Country and Catalonia, have embraced the European process, which offered both direct funding and access to organisations representing their interests in Brussels. Spanish autonomous communities have been active in many types of para-diplomacy and have profited from the money flowing into Spain from a wide range of European programmes.

Since 2011, support for the EU has fallen to 55% in Spain. It is still above the level elsewhere in southern Europe, but this represents a considerable drop. It can logically be attributed to the economic policy of austerity imposed on countries in crisis, including Spain.

The Sovereign Debt Crisis: a U-turn?

Spain entered recession in the global banking crisis, and in 2011 amended the Constitution to oblige the Government to balance its annual budget. In the wake of austerity cuts and tight supervision by the EU, the Popular Party achieved an absolute majority in the November 2011 elections. In June 2012, the Government accepted a European bailout of the Spanish banks, and in July 2012, a bailout of the Spanish regions. The Troika imposed a restructuring of Spanish public finances, during which most regional banks were closed. These had a history of poor management by local administrations, but their closure represented a significant loss of financial freedom for regional governments. The bailout for autonomous communities required their governments to limit their regional deficits, but the limits vary across different regions. This asymmetry is provoking harsh debates, with no agreement in sight.

Today unemployment stands at 26% and public debt at 84%. Structural funds are shifting their focus to eastern and central European regions, and regional governments

have less room to manoeuvre than ever before, prompting alternative approaches by the more powerful devolved governments. Castille-la-Mancha, Murcia, Madrid, governed by the Popular Party, is transferring competencies and responsibilities such as Justice, Education and Health back to the national Government. Others, such as Andalucia and Navarre are taking a ‘wait and see’ position. The activist exception is Catalonia.

Catalonia: an Exit Strategy?

Catalonia integrated into the Spanish Crown in 1516. Arguments about its institutional status within Spain have never stopped since, and in May 2013 were the subject of major demonstrations and Court action. The region is a strategically important territory for Spain, with the highest GDP per capita in the peninsula, a high concentration of industry, banks, media and tourism and about 25% of the country’s exports. Almost continuously since democratisation, Catalonia has been ruled by the neo-liberal, strongly pro-Europe *Convergència i Unió* (CiU), although at the moment the coalition has no absolute majority. Despite its wealth, Catalonia has been hard-hit by the crisis. Many small and medium sized companies have closed, and unemployment stands at 25%. CiU has introduced major austerity measures since 2010.

The devolved Government has also raised major objections to the current pattern of fiscal transfers within Spain, whereby richer regions cross-subsidise poorer ones (a key example of the analysis set out in Chapter Two). In percentage terms, Catalonia is the biggest contributor to the national budget and the smallest recipient. The CiU has argued that the current mechanisms must be reformed so that Catalonia has the same *concierto económico* (economic agreement) as that in place in Navarre and the Basque Country. Those two regions collect taxes and send a portion to Madrid. They are the only bodies, besides the central Government, empowered to raise taxes in Spain.

In September 2012, a million-strong demonstration in Barcelona claimed independence for the region. Despite this, negotiations between the Catalan and Spanish Governments for a new fiscal agreement failed, with central Government arguing for territorial solidarity. The CiU called new regional elections, seeking a greater majority in the regional parliament but instead lost 12 seats, 11 of which were taken by the left-wing Catalan nationalists. Just before the elections, the Catalan Parliament adopted a resolution to organise

an independence referendum, following the Scottish example. In January 2013, the new Catalan Parliament adopted a declaration of sovereignty. On 8 May 2013, the Constitutional Court suspended this declaration.

Four scenarios for the future

The first, most dramatic, option is *secession* from Spain. Arturo Mas, Leader of the CiU and President of the Catalan Parliament, has stated the question as “[whether] the EU is prepared to offer solutions to countries such as Catalonia, that have the will to be in Europe, that have the same rights as other European citizens and that the only thing they want is to change their political status.”

The situation is less clear cut than Sr Mas suggests. The current position of the European Commission President is that seceding regions should reapply for membership and will be subject to the veto of existing members. EU member-states are, of course, concerned about the risk of a domino effect, promoting possible secession by regions such as Corsica, Flanders, Northern Italy, Scotland and the Basque Country. Further, the financial costs of a divorce are unknown. It is not clear that a unilaterally seceding Catalonia could finance its debt on the international markets, and trade with the region’s main partners in France and Spain might be hit by tariff changes. Finally, it is not certain that CiU itself will agree to independence, as other coalition leaders would prefer a new fiscal pact.

The second option is the other end of the spectrum: *recentralisation*. Catalonia has the highest public debt in Spain and depends on the central Government to balance its budget. The bailout shows that central Government is a stronger negotiator than the regions. Public opinion may demand the extension of the *concierto económico* to Catalonia, but recentralisation implies a tighter integration with the rest of Spain.

The third option is *federalisation*. Catalan Socialists have proposed to modify the status of the national Senate, which currently has no veto powers and does not represent autonomous communities. The Popular Party and the main regional parties are still reluctant to modify the equilibriums established during the transition as represented in the Constitution. At present the CiU and the Basque Nationalist Party (PNV) exert considerable pressure on the main state-wide parties in the Congress of Deputies through the current electoral system.

Federalisation would probably imply a change of electoral system (to allow the autonomous communities to be represented in a federal Senate) and this could signify the end of the CiU and PNV monopoly as the main hinge-parties of Spanish politics.

Fourth is the current strategy of the national Government, to maintain the *status quo* and wait for the end of the crisis in order to modify the territorial system of representation. Such a strategy of non-decision is a default solution, but no one has the sufficient power in Spain to propose an alternative answer.

The next months will be critical in determining the real capacity for innovation in the Spanish territorial system. At the time of writing, no-one can predict what will happen.

The Catalan diplomat's perspective

Albert Royo is General Secretary of DIPLOCAT, the Public Diplomacy Council of Catalonia. He reminded delegates that the infrastructure of European governance has always been a key issue for Catalonia, which has been a net contributor to the Union. The region was the first in Spain to open an office in Brussels.

Devolution parties have been strong in Catalonia since democratisation. Throughout the 1980s and 1990s devolution initiatives were pursued to promote the region and attract investment. By 2000, it was clear that European regionalisation had failed, because regions were not able materially to influence European decision making – the strategies of working through the institutions and domestic routes had not delivered Catalan ambitions. Examples are: the Spanish Senate cannot influence the national position in Brussels (unlike the German *Bundesrat*); regions have very limited representation on the Spanish delegation to the EU, as they only have one member in four out of ten Council formations and that person must rotate every semester amongst the seventeen regions; and Catalan is still not an official language of the EU despite having nine million speakers across three member states.

The last decade has seen disappointments. The Catalan Government was optimistic in 2005 and came up with a proposal to reform its regional home rule, but promises were not kept and the Spanish Government has blocked Catalonia's ambitions. The following years saw Court actions and major demonstrations. The imposition in

2011 of the 'golden rule', as an amendment to the Constitution was a key moment; for many Catalans, who dislike its anti-regional language, it opened the door to changes to a Constitution that had previously seemed untouchable. Today, the Madrid Government insists on continuing cuts in public expenditure and ministers are making statements promoting the Hispanicisation of Catalonia.

The region has a long standing fiscal deficit which the Catalan Government attributes to the unfair tax regime. Catalonia has the third highest GDP per capita in Spain pre-tax, but only ranks tenth after tax. Thus Catalonia now seeks the same economic agreement as the Basque Country and Navarre, though which the Catalan government would collect taxes, and make an additional contribution to Spanish Government costs.

As of today, the Spanish Government and Courts are preventing Catalan self-determination, which is supported by 80% of Catalonian citizens. It is unsurprising that the Scottish referendum is seen by Catalans to offer a key precedent for Catalonia.

3.7 The European Commission and Wales

David Hughes, Head of the European Commission in Cardiff, also spoke in a personal capacity. He reflected on the enormous changes in both Belgium and Wales over the last thirty years. Before Brussels achieved its own government in 1989, the city had become somewhat run-down but the regional administration has invested significantly in the historic centre and other infrastructure. Living in Belgium emphasises the complexity and inter-relationships of its communities when a short journey can take you through two languages and three administrations. Despite the confusing – to outsiders – nature of the system, Belgians in fact enjoy a high quality of life. The resilience of the arrangements was shown during the 538 days when Belgium had no government in 2010–2011, it was clear that the regional and community arrangements operated to sustain all key functions.

The European Commission has a network of regional offices in Barcelona, Cardiff, Munich, Bonn, Wroclaw, Milan and Marseilles. This pattern may seem to have little rhyme or reason beyond historical attitudes in the

member state and the locality and does not arise from a top-down EU policy. Beyond this physical representation, relationships can also be looked at formally and informally. Despite the relatively high profile of the Committee of the Regions, established by the Treaty of Maastricht, it has very limited formal powers. Since the Treaty of Lisbon, it can take a case to the European Courts if it believes that the principle of subsidiarity has been breached, but nothing beyond this. It has the right to be consulted and get a response, the opinion must be "considered" or "taken into account", but it cannot block in any way the legislative procedure. The Committee's opinions are often of a very high quality, but their usefulness really depends on the influence and experience of the member in charge of preparing the opinion and their knowledge of the informal processes of the Commission. Informal issues are very important to regional success in the EU.

Formal partnership agreements are made between the member state and the Commission, even where it is the regional government assuming responsibility, for instance as a managing authority for structural funds. In practice, of course, there are continuing and close relationships between those regional governments and the EU. Despite this, regional administrations can see that in the EU national governments call the shots, even on highly decentralised areas such as education. As a result, regional governments also need close and effective relationships with national governments and strong input to policy debates on matters of local competence.

The regional policies of the EU have sometimes been seen as a "pincer movement" against national governments. Regional policy began in 1975 at the time of the UK referendum, when it was seen as a trade off between France and the UK enabling France to retain the Common Agricultural Policy with few changes. The Conservative campaign for a 'yes' vote in the UK was launched by Margaret Thatcher, then leader of the party, in a speech praising regional policy. The basis of that policy is contained in the commitments of the Treaty of Rome to improve the situation of poorer regions across Europe.

The continuing commitments in that Treaty highlight that the European Union is important to Wales. Indeed, some say it is more important to all smaller countries and studies have been produced which purport to show that GDP per head is higher in European countries with a population under ten million people. This has led some to ask the question, against the backdrop of a referendum

in Scotland next year and a possible UK referendum on EU membership: if a country the size of Cyprus or Malta can be independent within the EU, then why not Wales? But the future of UK's relationship with the EU is a matter for the people of the UK to decide of course, not the European Commission.

Conclusion

Public will, local ambitions, cultural pride and harsh financial reality form a tight knot. Untangling the opportunities and challenges for Wales, the United Kingdom and the European Union relies on informed and honest debate. A fundamental recognition must be that, for Wales, a future UK – with or without Scotland – outside the European Union would be against the current known wishes of Welsh people and would almost certainly be detrimental to Welsh interests.

Wales must continue to promote a mature debate about national identity and multi-level governance. Westminster's response to the work of the Silk Commission on tax and Assembly powers will be crucial. The Welsh people appear ambitious for more devolution, and indeed many Westminster Cabinet members seem content to promote diverging public policies across the UK. Whichever way the Scottish vote next year, the constitutional arrangements are not going to stay as they are. The question is not whether there will be further devolution from Westminster, but how and when.

This debate cannot only be a bilateral squabble with London about which powers rest where. The broader strategy for government in Wales, incorporating the role of other tiers and public sector organisations, needs to be made clear, including strategies to build capacity and skills.

Wales is a distance from seeking independence, not least because of its low scores in both formal and material measures of fiscal autonomy: this is a poor country with little history of managing its own resources. It is in Wales's interest that the UK thrives. Wales, historically comfortable with power-sharing and multiple governance alongside a strong and positive sense of national identity, can facilitate a broader debate about the future constitution of the UK, outside the confines of English nationalism and the Scottish pursuit of independence. It is time for Welsh leaders to take their place on the UK stage to discuss the constitution.

In this context, the English Question is crucial. Unease with devolution, anti-immigration views and deep distrust of Brussels are combining to create a potential English majority for policies, including leaving the European Union, which would not be in the best interests of Wales. Debates about governance and devolution in all the regions and countries of the UK therefore need to address those anxieties and find ways to answer the English perception of powerlessness.

Membership of the European Union is good for Wales, and appears to be supported by the majority of Welsh people, if only for pragmatic reasons. The structural funds have brought in much-needed jobs and supported training. After 2020, Wales will be the only part of the UK still receiving these resources; if only for this reason, the Welsh Government now more than ever needs a visible and united voice on European affairs more than ever.

EU membership benefits Wales in other ways. It supports the Welsh Government in articulating and delivering distinctively Welsh solutions to the country's challenges, and it helps to frame Wales as a small, socially just nation. Transnational networking offers the devolved government the opportunity to construct new political alliances that go beyond the purely Welsh or UK debates, even with limited legal powers and constrained fiscal capacity.

Despite these benefits, the European Union is facing major stresses, not least the tension between tightening fiscal control, the ambitions of sub-national territories and nationalism. Regional and local policy setting and service delivery remain a core priority for the Commission, but the normative requirements of crisis management may be threatening some of the long term principles of the European Union, including fiscal justice and the transfer of resources from richer regions to poorer ones. Despite the fact that Wales is outside the Eurozone, Welsh ambitions within Europe are potentially undermined by the weakening of those principles and ever-higher expectations for debt management and fiscal autonomy.

Some smaller nations, most famously Scotland and Catalonia, have lost patience with both the regional institutions of the EU and their own member-states and have started on a road that might lead to independence within Europe.

The impact of the Scottish referendum emphasises, especially for Wales, that the actions of one region have enormous implications for their neighbours, historical allies and other communities articulating their own ambitions. At the same time, the growth of English concerns risks a paradoxical outcome: a push for English sovereignty outside Europe could irreparably change the UK as the smaller nations see the EU as the more attractive place in which to operate. The situation emphasises why stateless nations, such as Wales, need to define for themselves what they want, what is achievable and their path to its delivery.

Wales is poised to take more responsibility for its future and undertake that strategic work of self-direction within the real financial and political constraints. The all-party support in the National Assembly for the devolution of taxation proposed by the Silk Commission is one strong sign of the country's determination to work in a practical and coherent way to improve the accountability of the Welsh Government and to seize some of the levers which will further enhance Welsh solutions. The Welsh experience of multiple layers of government, negotiation and practical problem solving can be of service in shaping and sustaining the two Unions, both of which are fundamental to Wales's continuing success.

Appendices

Glossary of Terms and Acronyms

Barnett Formula The formula used by the UK Government in determining the allocation of resources to different countries within the United Kingdom.

EC European Commission

EU European Union

Fiscal Compact The Treaty on Stability, Coordination and Governance in the Economic and Monetary Union; also referred to as TSCG or the Fiscal Stability Treaty.

MEP Member of the European Parliament

MP Member of Parliament (meaning the Westminster Parliament)

SGP Stability and Growth Pact. The Stability and Growth Pact (SGP) is a rule-based framework for the coordination of national fiscal policies in the European Union, based on the principle that economic policies are a matter of shared concern for all Member States.

SNP Scottish National Party

UKG UK Government

UKIP UK Independence Party

Speakers' Biographies

Eurfyl ap Gwilym is a Plaid Cymru representative and former Deputy Chairman of the Principality Building Society. Dr ap Gwilym has been a member of Plaid Cymru since 1963 and is a longstanding adviser to the party. In 2008, he was Chair of Plaid Cymru's commission on fairness and taxation. He is a former national chairman of the party, as well as a founding member of the Plaid Cymru Research Group in 1967. He has held senior positions including directorships in a number of leading businesses, predominantly in the IT and financial services sectors, such as Philips, GE and the Terence Chapman Group. He has served as a non-executive director on the boards of a number of listed companies. He is a Trustee of the Institute of Welsh Affairs and is a current member of the Commission on Devolution in Wales, nominated by Plaid Cymru. A former Chief Executive of BIS Banking Systems International, he is the author of many articles on treasury matters and economic policy.

Arthur Benz is Professor of Political Science at the Technische Universität Darmstadt, Germany. He also worked at the Universities of Konstanz, Halle, Hagen and at Carleton University Ottawa. His research on federalism, multi-level governance and regional policy has been published in several books and journal articles. His last book, *Federal Dynamic*, was edited with Jörg Broschek and collects theoretical and empirical studies on the continuity and change of federal systems.

Mona Bras is a member for the Union Démocratique Bretonne (UDB) of the Brittany Regional Council and deputy mayor of Guingamp, with responsibility for identity and heritage. She was first elected to the regional Council in 2004. In November 2006 she was elected as spokesperson of the Congrès Quimper, the first woman to hold this position within the party.

Desmond Clifford is Head of the Welsh Government's EU office within the Office of the First Minister and was previously Head of the Welsh Assembly Government's Office at the European Union in Brussels. He spoke in a personal capacity.

Alistair Cole AcSS FLSW FRHistS is Director of Research (Politics) in the School of European Languages, Translation and Politics at Cardiff University, where he has been Professor of European Politics since 2004. He has been Visiting Fellow at some of the leading institutions in

Europe, the Europe Centre a Sciences Po, Paris (2010), the Sorbonne (2007–2009) and the European University Institute (2004). In 2007 he held the Vincent Wright Chair at Sciences Po, Paris. Professor Cole is a founding member of the European Governance, Identity and Public Policy research unit and co-chair of the Wales Governance Centre. He was elected to the Fellowship of the Academy of Social Sciences in 2009 and to the Fellowship of the Learned Society of Wales in 2011.

Wayne David MP has been the Labour MP for Caerphilly since June 2001 and is Shadow Minister for Political and Constitutional Reform. Between 2010 and 2011 he was Shadow Minister for Europe, before which he was Shadow Minister for Wales, having been the Parliamentary Under Secretary of State in the Wales Office between October 2008 and May 2010. Between June 2007 and his appointment to the Wales Office, he was a Government Whip for the Department for Work and Pensions and the Wales Office. He was a Member of the European Scrutiny Select Committee and the Standards and Privileges Committee, and has held positions on a number of All Party Parliamentary Groups in addition to establishing the All Party Parliamentary European Union Group in 2006, which he chaired until June 2007. Prior to this, Wayne David was Parliamentary Private Secretary to the Minister of Defence Team and then to the Minister for the Armed Forces. Before being elected to Westminster, he was a Member of the European Parliament for 10 years where he led the Labour Group, was Vice-President of the Socialist Group and was First Vice-Chair of the Parliament's Regional Policy Committee.

Geert de Proost has been Representative of the Flemish Government in the UK since September 2008. Prior to this position he was Representative of the Brussels Capital Region to the European Union in charge of Competitiveness (Internal Market, Industry and Research) and Institutional Affairs (2001–2008).

Christian de Visscher has held several positions in the Belgian civil service (both at federal and at regional level) before being recruited as a Professor in Public Administration by the University of Louvain in 1998. He teaches public administration and management both at Master and PhD levels and is also involved in Executive Masters for professional civil servants. Since 2010 he has chaired the Louvain-Europe Institute for Political Sciences at UCL. His research lies in the field of public sector management in Belgium and Western Europe.

Kenneth Dyson AcSS FRHistS FBA FLSW has been Research Professor in the School of European Studies at Cardiff University since 2003. He is a founding member and early of the Association for the Study of German Politics (ASGP) and serviced as founder and chair of the Standing Conference of Heads of European Studies (SCHEs). In addition to being a Fellow of the British Academy, he is an Academician of the Learned Society of the Social Sciences and a Fellow of the Royal Historical Society. He is also a founding Fellow and Council member of the Learned Society of Wales.

Jean-Baptiste Harguindéguy is Professor of Policy Analysis and Public Administration at the Pablo de Olavide University in Seville. He has taught in different universities and research centres in France and Spain. He recently published the handbook *Análisis de Políticas Públicas* and, with Xabier Itzaine, *Towards an Institutionalised Language Policy for the French Basque Country: Actors, Processes and Outcomes*.

Gerald Holtham is a Visiting Professor at Cardiff Business School as well as a Managing Partner of Cadwyn Capital LLP and an adviser to the Finance Minister in the Welsh Government on strategic infrastructure investment. He is a former Chief Investment Officer of Morley Fund Management (now Aviva Investors) and was also the Chief International Economist at Lehman Brothers, London. Gerald Holtham was the Chairman of the Independent Commission on Funding & Finance for Wales, the Welsh Government's Commission reviewing the Barnett Formula, and was a member of its Economic Research Advisory Panel. He previously worked on public policy issues as a director of IPPR from 1994 to 1998, and also as head of the General Economics Division in the Economics Department of the Organisation for Economic Co-operation and Development (OECD), Paris. His previous academic positions include Fellow of Magdalen College, Oxford, and Visiting Fellow of the Brookings Institution, Washington DC. He is a Trustee of the Institute of Welsh Affairs.

David Hughes was appointed Head of the Office of the European Commission in Cardiff in June 2012. Prior to joining the Cardiff Office he was Head of Sector at the Directorate General of Education and Culture at the European Commission and has over 17 years' experience with the Commission. He spoke in a personal capacity.

Hywel Ceri Jones joined the European Commission in 1973 as Head of Department for Education and Youth

Policies and in 1993 was appointed as Deputy Director-general of the Directorate General for Employment, Social Policy and Industrial Relations of the European Commission. He has served both as senior social policy adviser and European adviser to the Secretary of State for Wales, chaired the Governing Board of the European Policy Centre (Brussels) and served as director of the Network of European Foundations.

Richard Wyn Jones FLSW is Professor of Welsh Politics at Cardiff University where he joined as Director of the Wales Governance in February 2009. Prior to this he was Professor of Welsh Politics and founding Director of the Institute of Welsh Politics at the Department of Welsh Politics in Aberystwyth University. Professor Jones has written extensively on contemporary Welsh politics, devolved politics in the UK and nationalism. He has led significant electoral surveying to increase understanding of the attitudes of electors in Wales after Westminster and National Assembly elections. In addition, he is one of the founders of Critical Security Studies. Richard is a regular broadcaster, commentating on Welsh politics in both Welsh and English for the BBC in Wales and across the UK. He has also presented two TV series and is a regular columnist for the Welsh language current affairs magazine *Barn*.

Michael Keating FBA FRSE is Professor of Politics at the University of Aberdeen and the University of Edinburgh. His research interests include European politics, nationalism, public policy, urban and regional politics, and social science methodologies. He graduated from the University of Oxford in 1971 and gained his PhD at what is now Glasgow Caledonian University in 1975. He has held positions at the University of Essex, North Staffordshire Polytechnic, the University of Strathclyde, the University of Western Ontario and the European University Institute in Florence, where he was head of department. Professor Keating has held visiting positions at the Institut d'Études Politiques de Paris, University of Santiago de Compostela, University of the Basque Country, Virginia Polytechnic Institute and State University, the Norwegian Nobel Institute, Nuffield College (Oxford), University of Grenoble and Autonomous University of Barcelona. He has a doctorate *honoris causa* from the University of Louvain La Neuve. He is a Fellow of the Royal Society of Edinburgh, a Fellow of the British Academy and an Academician of the Academy of Social Sciences.

Iain McLean FBA FRSE is Professor of Politics and Fellow of Nuffield College, University of Oxford, a post he has

held since 1992. Prior to this position, Professor McLean held various teaching positions at the University of Warwick, University College, the University of Newcastle upon Tyne and again at Nuffield College where he began his career as a Research Fellow in 1967. Professor McLean founded the Public Policy Unit in the Department of Politics at Oxford in 2005. His research interest include public policy including devolution, public finance and fiscal policy, public choice, social choice and its history, 18th Century political science, party systems and electoral systems, and government response to disasters. He was elected to the Fellowship of the British Academy in 2008 and to the Fellowship of the Royal Society of Edinburgh in 2012. In April 2013, he published a book, with co-authors Guy Lodge and Jim Gallagher, titled '*Scotland's Choice: The Referendum and What Happens Afterwards*'. Professor McLean is currently the Vice President of Public Policy at the British Academy.

Kenneth O. Morgan FBA FLSW is Visiting Professor in the Institute of Contemporary British History at King's College, London, Honorary Professor at the University of Swansea, and a Labour Member of the House of Lords. He has written over 30 books, mainly in the field of modern British history and Welsh history. He is known for his biographies of key political figures such as Lloyd George, Keir Hardie, James Callaghan and Michael Foot, while his edited Oxford History of Britain has sold over 750,000 copies. He served as Vice-Chancellor of the University of Wales from 1989 to 1995. He was elected to the Fellowship of the British Academy in 1983 and is a Founding Fellow of the Learned Society of Wales. He was raised to the peerage in 2000 as Baron Morgan of Aberdifi, and in 2008 became a member of the Gorsedd of Bards of the Welsh National Eisteddfod.

John Osmond: until April 2013 John Osmond was the Director of the Institute of Welsh Affairs, a position he took up in 1996. He continues to edit the IWA's journal *The Welsh Agenda* and online newsite www.clickonwales.org. He received a BA in Philosophy and Politics at the University of Bristol and was awarded an honorary MA by the University of Wales in 2004. John Osmond began his career in journalism and broadcasting at the *Yorkshire Post*, after which he was reporter, then Welsh Affairs Correspondent, for the *Western Mail*. He then worked for HTV Wales, where he helped launch the current affairs programme *Wales this Week* and produced several programmes such as the Channel 4 documentary *The Divided Kingdom*. John Osmond was

then Deputy Editor for *Wales on Sunday*. Prior to joining the Institute of Welsh Affairs, Osmond founded Agenda Productions, which produced programmes for the BBC, HTV, Channel 4, S4C and STV. He is a Fellow of Cardiff Metropolitan University.

Romain Pasquier has been CNRS Research Professor at the Centre des Recherches sur l'Action Politique en Europe in the University of Rennes, France, since 2011. He has also been visiting scholar at the Universities of Aberystwyth, Exeter, Montreal and Seville and was John Monnet Fellow at the Robert Schumann Centre in the European University Institute of Florence. His last book *Le Pouvoir Régional: Mobilisations, décentralisation et gouvernance en France* tries to renew the analysis of territorial politics in Europe.

Sir Adam Roberts KCMG PBA was President of the British Academy between 2009 and 2013 and is Emeritus Professor of International Relations, Oxford University. He was Montague Burton Professor of International Relations at Oxford University, 1986–2007. His main research interests are in the fields of international security, international organisations, and international law, including the laws of war. He has also worked extensively on the role of civil resistance against dictatorial regimes and foreign rule, and on the history of thought about international relations. He is the author and editor of numerous articles and books. Joint editor (with Richard Guelff), *Documents on the Laws of War*, 3rd edn., and joint editor (with Timothy Garton Ash), *Civil Resistance and Power Politics: The Experience of Non-violent Action from Gandhi to the Present*. His latest book is *Democracy, Sovereignty and Terror: Lakshman Kadirgamar on the Foundations of International Order*.

Albert Royo was appointed General Secretary of DIPLOCAT, the Public Diplomacy Council of Catalonia, in February 2013. Prior to taking this position he worked at the European Commission and most recently led the press unit and was political report for its Delegation in Barcelona. (DG COMM).

Roger Scully AcSS FLSW has been Professor of Political Science associated with the Wales Governance Centre at Cardiff University since March 2012. He was accepted as an Academician of the Academy of Social Sciences in 2010 and elected a Fellow of the Learned Society of Wales in 2011. He was Co-Director of the 2011 Welsh Referendum Study and of the 2011 Welsh Election Study.

Paul Silk is Chair of the Commission on Devolution in Wales. He is a former Clerk to the National Assembly for Wales, serving from March 2001 until December 2006. During this period he was the most senior official in the Assembly and acted as the principal advisor to the Presiding Officer. He is a former Clerk of the House of Commons on the Welsh Grand Committee, the Clerk in charge of the Government of Wales Bill and contributed to drafting the first standing orders of the National Assembly for Wales. He was Director of Strategic Projects in the House of Commons from 2007 to 2010. He has also worked as Presidential Adviser in the Parliamentary Assembly of the Council of Europe and has written and lectured extensively on Parliament and the constitution. He is an honorary Professor at the Wales Governance Centre at Cardiff University, and works regularly for the Westminster Foundation for Democracy.

Ian Stafford is a Lecturer in Politics in the Department of Politics, School of European Languages, Translation and Politics (EUROP) at Cardiff University. He is affiliated to the Wales Institute of Social and Economic Research, Data and Methods (WISERD). He is network coordinator in the three year International Network ‘Territorial Governance in Western Europe: between Convergence and Capacity’ funded by the Leverhulme Trust.

Stijn Smismans is Professor of Law, holder of the Jean Monnet Chair in European Law and Governance and Director of the Cardiff Centre for European Law and Governance, a Jean Monnet Centre of Excellence. He has provided policy advice to the European Commission, the European Parliament, the European Economic and Social Committee, the Committee of the Regions and the Welsh National Assembly.

M Wynn Thomas OBE FBA FLSW is Vice-President of the Learned Society of Wales, holds the Emrys Humphreys Chair of Welsh Writing in English, and is the former Director and founder of the Centre for Research into the English Literature and Language of Wales at Swansea University. He was elected a Fellow of the British Academy in 1996 and received the highest honour of the National Eisteddfod of Wales in 2000. In June 2007 he was appointed OBE for services to the two literatures of Wales.

Thomas Glyn Watkin FLSW is an Honorary Professor of Law at both Cardiff University, where he taught from 1975 until 2004, and at Bangor University, where he was foundation Professor of Law from 2004 to 2007. Professor

Watkin was called to the bar by the Middle Temple in 1976 and was Legal Assistant to the Governing Body of the Church in Wales between 1981 and 1998, with responsibility for drafting bilingual bills and amendments to the Church’s constitution. His principal interests are in the history of law in England, Wales and Europe, including the history of Roman law. He is a council member of the Selden Society, an elected member of the Academy of Private Lawyers of Milan and Pavia, and is a founder of the Welsh Legal History Society. From April 2007 until his retirement in 2010, he was First Welsh Legislative Counsel, responsible for drafting the legislative programme of the Welsh Assembly Government. Professor Watkin is an ordained priest within the Church in Wales and was elected a Fellow of the Learned Society of Wales earlier this year.

Associated Organisations and Supporters

The **Cardiff University School of European Languages, Translation and Politics** is at the cutting edge of research on Europe, and has become one of the leading departments of its kind in the UK. The combination of established researchers with international reputations and young scholars has meant that the School has been able to develop a dynamic and forward-looking research ethos. Within the School, the Research Unit on European Governance, Identities and Public Policies (EGIPP) focuses on the examination and comparisons of the institutions, politics, policies and societies of leading European states. Particular emphasis is placed on the role of cross-national networks of expert and political elites in processes of European integration and Europeanisation. EGIPP promotes world-class standards in 'leading-edge' research on topics that draw together comparative European political and policy research and detailed expertise in European area studies with the study of processes of European integration and Europeanisation.

The **Cardiff Jean Monnet Centre** is the Centre for European Law and Governance (CELAG), which is an interdisciplinary research centre bringing together the extensive expertise on EU studies present in six schools of Cardiff University, namely the Law School, the Business School, the School of Social Sciences, the School of European Languages, Translation and Politics, the School of City and Regional Planning, and the School of Journalism, Media and Cultural Studies. All these schools rank brilliantly on the UK national research assessment (RAE 2008); Social Sciences, and City and Regional Planning are the best in the country, European Studies is second in the UK, the Business School and Journalism are both fourth, while the Law School is the UK's 7th best. CELAG has been recognised by the European Commission as a Jean Monnet Centre of Excellence

The **Wales Governance Centre** is a Cardiff University research centre undertaking innovative research into all aspects of the law, politics, government and political economy of Wales, as well the wider UK and European contexts of territorial governance. A key objective of the WGC is to facilitate and encourage informed public debate of key developments in Welsh governance not only through its research, but also through events and postgraduate teaching. The Centre is proud to play a central role in

training the 'next generation' of practitioners and experts in Welsh law, politics and government.

The **Leverhulme Trust's International Network on Territorial Governance in western Europe: between Convergence and Capacity** (IN-2012-109) is based on a partnership between Cardiff University, the Institute of Political Studies, Rennes (France), the Universidad Pablo Olavide (Seville, Spain), Darmstadt Technical University (Germany) and the Catholic University of Louvain-la-Neuve (Belgium). The network lead is Professor Alistair Cole of Cardiff University; the co-Investigator is Dr Ian Stafford, Cardiff University. Specifically within Cardiff University, the Wales Governance Centre is providing logistical support for the network. Alistair Cole warmly thanks the Leverhulme Trust for its financial support for this network.

The **UK-wide University Associations of Contemporary European Studies (UACES)**, established in 1969, is the academic association for Contemporary European Studies. It is a membership organisation for academics, students and practitioners who are interested in all aspects of Europe and the European Union. The object of the Association is to advance education for the public benefit through the promotion of teaching and research in Contemporary European Studies.

Event Programmes

Europeanising Devolution

Wales, the United Kingdom and Europe

Friday 24 May 2013, the Pierhead Building, Cardiff Bay



10.30–10.35 Welcome and Introduction

by Professor M Wynn Thomas OBE FLSW FBA

10.40–12.30 European Territorial Governance Between Convergence and Capacity

chaired by Professor Stijn Smismans (Cardiff)

European territorial governance between Convergence and Capacity

Professor Alistair Cole FRHistS AcSS FLSW (Cardiff University)

Saints and Sinners: the impact of the sovereign debt crisis on regional autonomy

Professor Kenneth Dyson AcSS FRHistS FLSW FBA (Cardiff University)

Convergence and Divergence in the United Kingdom

Dr Ian Stafford (Cardiff University)

13.25–14.45 Europe's multi-level States between Convergence and Capacity

chaired by Professor Roger Scully AcSS FLSW (Cardiff University)

13.25 Germany: Europeanisation and multi-level governance in Germany

Arthur Benz, Darmstadt University

13.45 The EU and the Spanish Autonomous communities: from Carrot to Stick?

Jean-Baptiste Harguindéguy (Universidad Pablo d'Olavide, Seville, Spain)

14.05 Belgium's European Glue

Christian de Visscher (Louvain la Neuve University, Belgium)

14.25 Europeanisation and multi-level governance in France IEP Rennes, France

Romain Pasquier

15.35–17.00 Wales and its Partners

A roundtable discussion involving Hywel Ceri Jones (Wales Governance Centre, Cardiff University), the Principal Private Secretary to the First Minister of Wales (Desmond Clifford), the Head of the Office of the European Commission in Cardiff (David Hughes), together with practitioners from European regions: Catalonia, Spain (Albert Royo); Flanders, Belgium (Geert de Proost); and Brittany, France (Mona Bras)

17.00 Closing remarks

Professor Alistair Cole FRHistS AcSS FLSW (Cardiff University)

Welsh Devolution in Perspective

Wales, the United Kingdom and Europe

Conference: Friday, 31st May 2013
British Academy, Carlton House Terrace, SW1Y 5AH London



| | |
|------------------------|---|
| 10.30–11.00 | Arrival, Registration and Coffee |
| 11.00–11.05 | Welcome and Introduction by Professor |
| | Sir Adam Roberts PBA |
| 11.05–11.15 | Introduction and Overview by Professor Alistair Cole FLSW |
| 11.15–12.30 | A Broader Perspective |
| | chaired by Professor Alistair Cole FLSW |
| | <i>'Wales and Europe: Revolution to Devolution'</i> |
| | Professor Kenneth O. Morgan FBA FLSW, King's College London |
| | <i>'Wales in the UK's Changing Union'</i> |
| | Professor Richard Wyn Jones FLSW, Cardiff University |
| | <i>'A European Perspective'</i> |
| | Professor Michael Keating FBA FRSE, University of Aberdeen |
| 12.00–12.30 | Q&A |
| 12.30–13.30 | Lunch |
| 13.30–15.00 | The Future Framework |
| | chaired by Professor Iain McLean FBA FRSE |
| | <i>'The Constitutional Future of Wales and the UK'</i> |
| | Paul Silk, Commission on Devolution in Wales |
| | <i>'A Welsh Legal Identity'</i> |
| | Emeritus Professor Thomas Glyn Watkin FLSW, Bangor & Cardiff Universities |
| | <i>'The Future of Spending'</i> |
| | Gerald Holtham, Cadwyn Capital LLP |
| 14.15–14.45 | Q&A |
| 14.45–15.00 | Break, Tea & Coffee |
| 15.00–16.30 | Panel Discussion: What Next for Welsh Devolution? |
| | chaired by Dr Ian Stafford, Cardiff University |
| | Opening Statements: |
| | Wayne David MP, Labour Caerphilly |
| | Dr Eurfyl ap Gwilym, Plaid Cymru |
| | John Osmond, Institute of Welsh Affairs |
| 15.20–15.50 | Panel Discussion |
| 15.50–16.20 | Q&A |
| 16.20–16.30 | Summing Up |
| 16.30–16.45 | Closing Remarks |
| | Professor Sir Adam Roberts PBA |

Weblinks

This is not a complete compendium of relevant web links but sets out some of the more immediately useful connections.

| Contact | Web address |
|--|--|
| Commission on Devolution in Wales ('the Silk Commission') | www.commissionondevolutioninwales.independent.gov.uk |
| The Independent Commission on Funding & Finance for Wales (Holtham Commission) | www.parliament.uk/briefing-papers/SN06288 |
| Figures on economic performance in the UK | www.ons.gov.uk/ons/dcp171778_291684.pdf |
| The National Assembly for Wales | www.assemblywales.org |
| The European Commission (in English) | http://ec.europa.eu/index_en.htm |
| The UK Government | www.gov.uk |
| The British Academy | www.britac.ac.uk |
| The Learned Society of Wales | http://learnedsocietywales.ac.uk |
| Cardiff University School of European Studies | www.cardiff.ac.uk/europ/ |
| Public Services Leadership Group | www.wlga.gov.uk/public-service-leadership-group |
| The Williams Commission | http://wales.gov.uk/newsroom/improvingpublicservices/2013/130614-commission/?lang=en |
| The Travers Report | www.london.gov.uk/media/mayor-press-releases/2013/05/london-calls-for-greater-say-over-its-taxes-to-boost-growth-compete-in-the-global-economy |

About the Author

Sarah Tanburn is an experienced consultant and senior manager within the public sector of the United Kingdom and New Zealand, and a professional writer. In the United Kingdom she has been adviser and manager on European affairs in several authorities and regional bodies, and both bid for and managed major European structural fund programmes. She is a Fellow of the Royal Society of Arts. Further experience is set out at www.workthewind.com.

In 2013, the Academies convened two one-day conferences, the first held in Cardiff and the second in London. The conferences were attended by a range of academic and policy experts. They provided a platform for a frank and informed discussion of Wales and the United Kingdom, within the broader European context.

This report is a record of the views expressed by the speakers and attendees at the two conferences and it does not represent an established position of either the British Academy or the Learned Society of Wales.

