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Civic borders and imagined communities: continuity and change in Scotland's municipal boundaries, jurisdictions and structures - from nineteenth-century "General Police" to twenty-first century "Community Empowerment"

Much recent scrutiny has been given to the significance of the external border between Scotland and the rest of the continuing United Kingdom, given the debates surrounding the 2014 Scottish Referendum and its aftermath (see for example Black, 2014). However, Scotland's *internal* borders in the form of local authority boundaries, and the often-fuzzy politico-legal line between the responsibilities and powers of Scotland's national (devolved) government and its 32 unitary local authorities merit attention also (see maps at Scottish Government undated, and Undiscovered Scotland, undated – hyperlinks in bibliography). Any such analysis must take cognisance of these local authorities' historical antecedents, if it is to comprehend the patterns of institutional and cultural continuity and change which have marked their development into their present forms, and to fully appreciate their contemporary challenges. This article delineates the broad contours of continuity and change in Scotland's local state organisation. It draws on existing politico-historical research, using this to better illuminate the problems and opportunities faced by this often under-examined sphere of government, not least contemporary debates on "community empowerment". It begins by considering the emergence of recognisably modern (Victorian) local government in Scotland, before delineating the major organisational and institutional changes to the system, leading ultimately to the current disposition.

The roles, status and functions of Scottish local government as it has developed since 1833 have often proved complex, contested and contingent, whilst remaining intimately connected to the long debate over Scotland's status within (or potentially outside) the Westminster state itself. In this context, Morton highlighted that the nineteenth-century

Scottish local state represented a key outlet for the patriotic energies of middle-class Scots, who saw in it an opportunity to make the 1707 union settlement work in their interests via local civic nationalism, rather than breaking up the union or devolving power from Westminster (1996, 1999). Over time, Scottish local government institutions became increasingly, if not always willingly, more democratically accountable (Pugh 2014b, p. 4; Atkinson, 1904, p. 31). Meanwhile, population changes accompanying industrialisation and urbanisation were reflected in progressive legislative concessions to local self-government in newer communities. These sought the means to form local municipal bodies to address pressing problems of public order and, increasingly, public health. John Stuart Mill wrote of the merits of locally accountable representative bodies, on the basis that they would serve as a bulwark against the tyranny of the majority, and, more anti-democratically, as a guarantor of expert governance by educated local elites (2001, pp. 168-80). Across the party divide, Benjamin Disraeli also fondly viewed locally self-governed communities as an important building block of society (Parry, 2007, p. 30). Abroad, Alexis de Tocqueville and Rudolph Gneist separately extolled the virtues of local self-government as a mechanism for moderate, middle-class rule (de Tocqueville, 1998 [1831] chapter 4; Schmitt, 2008, p. 332).

Yet as the nineteenth century progressed, local self-government was eclipsed by newer ideas in the form of municipal socialism and progressivism, resulting in centralising impulses and territorial consolidations, especially in and around Glasgow and Edinburgh (see for instance Pugh 2014a, *passim* and 2014b, pp. 4-6). (For more information on municipal socialism, see Fraser 1993.) Successive local government reorganisations in the twentieth-century created municipal structures seen to be increasingly distant, literally and figuratively, from their local citizens, by *circa* 2000. Given this disconnect, key actors in the sphere of Scottish local government, including the Scottish Parliament, the Convention of Scottish Local Authorities (COSLA), and non-governmental organisations, such as the Jimmy Reid

Foundation, have published reflections, reports and recommendations on optimising local democracy and efficiency, community identity and civic voluntarism with mass democracy in a digital age (see COSLA, 2014, Scottish Parliament, 2014, Gallacher et al, 2007, *passim*, Newton, 1982, *passim*, and Bort *et al*, 2012, *passim*).¹

This article contextualises these debates by offering a long view of the development of Scotland's local government institutions, paying especial attention to the themes of borders, jurisdictions, democracy, efficiency and power. It examines the emergence of recognisably modern local state apparatus from circa 1833, and the implications of the haphazard territorial spread of local government, especially for competing jurisdictions and community identity, as centralising impulses grew more powerful. The analysis then turns to three successive (20s, 70s, 90s) twentieth-century reorganisations, culminating in the contemporary context of 32 unitary authorities and the debate over how best to realise aspirations of "community empowerment". This longer view of the migration of municipal borders, jurisdictions and, the evolving legislative context in which these have developed, allows for a more nuanced and reflective consideration of the persistent nature of the challenges encountered by Scottish local democracy. Thus, it offers a concise historical analysis of the constraints and opportunities it faces under the current system, and in straitened economic times.

The limits of fragmentary nineteenth-century local self-government

Before 1832, local governance in Scotland's counties, as distinct from its established urban burghs, was conducted remotely by the Commissioners of Supply, with Justices of the Peace (JPs) as the most local arbiters of county administration (Whetstone, 1981, pp. 89-94 and 49-

¹ For an England and Wales perspective on the same issues see also Stoker & Wilson, eds, 2004, *passim*.

58). The urban burghs fell into two categories: royal burghs, whose status derived from the crown, and burghs of barony and regality, whose status derived from aristocratic patronage.

Scottish JPs, despite holding the same formal powers as their English counterparts, had comparatively little influence and prestige (Urquhart, 1992 pp. 2-3). Mabel Atkinson, the early twentieth-century Fabian scholar of Scottish local administration, noted that this form of county government was one where most inhabitants had “no voice”, and with no powers over public health, lighting or paving (1904, p. 74). In that context, she averred it was unsurprising that “all the villages wanted to be made into burghs, with the right to provide these things for themselves” (Ibid). From 1771 to 1832, in the continuing absence of a Scottish legislative framework for local governance, and with industrialisation and urbanisation occurring at different speed and intensity in different places, a variety of larger and established burghs moved to secure “police” powers via bespoke local Acts of Parliament (Urquhart, 1991b, p. 5).

The term “police” in this context derived from the Greek *politieia* or the Latin *politia*, with a much wider meaning than its contemporary one (ibid, p. 2). Police acts allowed the creation and empowerment of local authorities to deal with matters including crime and punishment, water supplies, paving, lighting and maintenance of streets, sewers, drainage and cleansing, nuisance control and general public health. Communities could request the powers that appeared most relevant to their particular local circumstances. By 1832, towns as diverse as Glasgow, Edinburgh, Greenock, Paisley, Kilmarnock and Leith, amongst others, had secured such acts (ibid, p. 5). By then, it was clear that a *general* police act for Scotland, from which all communities could obtain the powers they needed, would be cheaper and more effective, not to mention less demanding of parliamentary and local citizens’ time, than the then-extant patchwork of *ad hoc* local acts (Pugh, 2014b). In 1831, the Convention of Royal Burghs (the then representative body for Scottish local government institutions) pressed

unanimously for such legislation to be passed urgently (Urquhart, 1991b, p. 5). The Whigs' overwhelming victory in the landmark 1832 general election galvanised the cause of parliamentary and municipal reform. The resulting Burgh Police (Scotland) Act of 1833 embodied the liberal notion that a town's inhabitants should be empowered to identify their local concerns and priorities, deciding via representatives what funding should be allocated (Urquhart, 1991a, p. 99 and McCaffrey, 1998, p. 27).

The Act was pioneering in the United Kingdom context: both for the range of issues it empowered localities to tackle, and for the discretion, flexibility and relative autonomy it entailed contrasting with subsequent English public health laws (Prest, 1990, pp. 188-9). Yet it was more effective in principle than in practice, due to significant defects in its design: a restricted franchise, limited powers over local taxation and borrowing, as well as a lack of ability to enforce decisions relating to public health and nuisances. Even Scotland's larger towns found themselves unable to fund major schemes for water, sewers and drainage (Urquhart, 1991b, p. 99). Moreover, the selective franchise (initially £10 upwards on rental) meant that the improvements implemented tended to focus on the most affluent streets and neighbourhoods least likely to require them (McCaffrey, 1998, p. 28). New towns like Johnstone and Galston were not covered by the legislation (Ibid). So, after minor refinements in 1847 and 1850, the need for a new act granting more extensive and wider-ranging powers was widely acknowledged. Before discussing the legislative framework that emerged from this, it is important to consider some of the ramifications of the often arbitrary and irrational municipal and county borders, boundaries and jurisdictions that permeated the 1833 General Police Act and, as is seen below, continued to inform its successor Acts well into the twentieth century.

The local autonomy conceded under such legislation was typically conditional and circumscribed in practice. The United Kingdom's largely uncodified constitution then, as at

this writing, vested sovereignty in the Westminster Parliament, without entrenching powers at “subordinate” levels of government (Smith, 2005, p. 46). Moreover, the decision to grant a locality “police burgh” status and / or police powers were for the county sheriffs, reinforcing that such municipalities exercised only delegated authority within legislative constraints (Atkinson, 1904, p. 78). For instance, local taxes could only be raised for pre-approved purposes, although contributions could be sought for “voluntary” projects in local tax demand letters (ibid). The formal subordination of police burgh to county administration impeded rational governance. For example, Kinning Park, a neighbourhood on Glasgow’s southside, adjacent to the then police burgh of Govan, itself became a police burgh in 1871. This was largely because its location in Renfrewshire doomed attempts to amalgamate it with Govan (Maver, 1990, p. 132). The general police legislation did not entertain burghs forming across county lines, even where this would have been most practicable or desirable. There were also symbolic and ceremonial indications of the contingent status of Scotland’s new municipal institutions.

Until 1900, police burgh representatives were not formally permitted to style themselves as provost (chief magistrate, equivalent to mayor), bailie (magistrate) or councillor. Rather, they were more mundanely described as chief magistrate, junior magistrate and (police) commissioner, respectively (Maver, 2008, pp. 92-3). This did not deter police burgh leaders from adopting these honorifics, nor indeed from adopting the municipal coats of arms that were also formally denied them until 1900 (ibid, 92). Maver argues that these practices were no accident, given they “conferred gravitas and suggested a sense of history to fledgling communities” which, alongside the erection of custom-built town halls promoted “a tangible sense of municipal authority” (ibid, p. 36). As such, “tradition was often invented to reinforce municipal values on the public consciousness” (Maver, 2007, p. 30). This resonates with Cohen’s reflection that ritual and symbolism together play central parts in the

affirmation and reinforcement of community boundaries, which for the purposes of this article are broadly defined as both literal and jurisdictional (Cohen, 1998, p. 50). Claims to longstanding provenance were prominent in police burgh leaders' rhetoric and demeanour, resonating with Hobsbawm's definition of "invented tradition" as, essentially, an attempt "to establish continuity with a[n ideologically] suitable historic past" (1992, p. 1). There was, in short, something about the very modernity of the legislation enabling the creation of so many new municipal bodies that seemed to demand their swift cloaking in *ersatz* historical provenance and ceremony. But this does not detract from the wider importance of the General Police Act and its later iterations.

For all its flaws, the 1833 Act had, probably most importantly, conceded the broad principle of local self-government (Urquhart, 1991a, p. 100; Pugh, 2014a, pp. 40-3). Morton has emphasised the importance of appreciating the "complexity of mid-Victorian government", and its "decentralised" nature in Scotland's urban communities, where the role and importance of civil society and civic nationalism were growing (Morton, 1996, p. 259). Here was a Scottish version of what was later termed "civic republicanism", where administration is entrusted to the people of a community, through representatives (see Delanty, 2003, pp. 81-6). In legislative terms, the need for an enabling framework for local self-government had secured widespread acceptance - even popularity - by 1850, when an improved Police of Towns (Scotland) Act was passed (Urquhart, 1991a, pp. 2-4). The 1862 General Police and Improvement (Scotland) Act represented the most significant Scottish legislation of Prime Minister Palmerston's administration, but owed its animal spirit to Leith Burghs' provost William Lindsay (Urquhart, 1991b, p. 13).

Lindsay had become frustrated by the limitations of the existing legislation when attempting to improve working-class housing and public health, taking inspiration from the 1858 English Local Government Act, which allowed communities to seek "provisional

orders” to proactively address such issues (Campbell Irons, 1896, pp. 531-4). This English legislation had been inspired in turn by Scotland’s pioneering general police acts, indicating reciprocal emulation and innovation across the Scottish-English border (Prest, 1990, p. 46). Lindsay’s bill was drafted and consulted on extensively at considerable personal expense, made possible by his occupation as a wealthy shipwright (Urquhart, 1990, pp. 16-17). Although it encountered some turbulence and revisions in the House of Lords, the bill was soon enacted. As well as securing and consolidating the ethos of the earlier general police laws, it – in contrast to these - provided a mechanism for ongoing revisions to be made as required (Urquhart, 1991b, p. 17). Until the 1880s, Lindsay was instrumental in shaping later iterations of the Act; his work significantly influenced the 1892 Burgh Police (Scotland) Act. McCaffrey noted that the Lindsay Act and its later iterations led to 185 towns, 84 of which were not burghs, improving their local conditions and it was essentially this act that created Scotland’s “typical Victorian urban landscape of baronial town halls and regular paved streets lined with rows of stone tenements, shops and pubs” (1998, p. 17). It led to the formation of four brand new police burghs, ranging in population from Kingussie, Inverness-shire with 700 souls at incorporation, to Clydebank, Dunbartonshire, at 10,000 (Urquhart, 1991, p.2). The flexibility embodied in the 1862 act entailed significant variations in the extent to which police powers were adopted across Scotland. Populous places, like the districts of Partick and Govan, near Glasgow, became police burghs, whilst the jurisdictions of some established burghs overlapped with nearby police burghs (but not, of course, across county lines), such as in Dumfries and Maxwelltown (Urquhart, 1991b, p. 2). The co-existence of police and more established burgh communities could be the focus of both resentment and mockery; sometimes simultaneously.

The emergence of a distinctively Scottish “town hall mentality”, where burghs and their representatives were seen as the focal point of local public life, was noted especially in newer

communities (1991, p. 433). For example, the Glasgow *Bailie*'s columnists grew "quite apoplectic" at the thought of residents from burghs surrounding the city benefitting from its amenities such as public parks without paying for their upkeep (Burgess, 1998, p. 60). The pretensions and absurdities discerned in such *parvenu* communities' civic leadership were encapsulated in the columns of fictional *Bailie* correspondent "Jeems Kaye", whose "adventures and opinions", from 1876 until the late 1880s, were eventually compiled in three books (ibid, p. 62). The author was Archibald Macmillan, a commission agent with a Glasgow business address but resident on the Ayrshire coast, who wrote prolifically for periodicals. His fictional alter-ego was a coal-merchant in the real Glasgow district - though never actually a burgh - of Strathbungo . It is likely that fictionalised Strathbungo was a thinly disguised version of Crosshill on the city's south-side. Kaye, typifying a self-made "good citizen", became heavily embroiled in local politics, serving variously as a juryman, school board member, census enumerator, corporal in the Royal Volunteers (in which guise he was knighted by Queen Victoria), a canvasser, and later unsuccessful candidate in parliamentary elections. He ended his public career as "Lieutenant Colonel Sir Jeems Kaye, self-styled provost (see the discussion of burgh nomenclature above) of Strathbungo" (ibid, p. 64). As a bailie, he successfully defended his burgh from annexation by Glasgow at the 1888 boundary commission. This echoed real life politico-legal tussles arising from the city's long-running campaign to consolidate outlying districts under a centralised administration run on rational lines.

The general police Acts' flexibility in response to emerging local needs, rather than national imperatives, was a source of both strength and weakness. Complications arising from a lack of central oversight included wide variations between burghs in population size and territorial coverage, and a patchwork of sometimes overlapping municipal boundaries and jurisdictions. This fostered confusion and politico-legal conflict, given the jealousy with

which many police burghs guarded their “independence” even (especially) when their incorporation into larger, consolidated local authorities, benefitting from economies of scale, would have made more objective sense. The Victorian convention (which did not persist beyond the First World War) that Parliament would not assent to the abolition of a municipality without the consent of local citizens - via their representatives - was in many ways laudable. But it could hinder needed public works and the introduction of progressive local taxation.

Atkinson argued that the police burgh procedure “stretched local autonomy too far”, given inhabitants of overcrowded districts might object to the cost of their rational administration (Atkinson, 1904, pp. 75-7). Nor, she felt, should small areas have had the absolute right to declare themselves burghs. Whilst the inhabitants’ wishes “ought to be most seriously considered [they were] not the sole determining factor”. In the history of Glasgow and its surrounding police burghs, Atkinson instanced many drawbacks of police burgh administration, and its persistence in the face of what she considered to be more efficient, up-scaled and centralised administration (1904, *passim*). Notwithstanding Atkinson’s frustrations, there were other, albeit less tangible factors explaining the police burghs’ longevity despite the onslaughts of municipal socialism and national efficiency which doomed them.² Similar territorial consolidation was entailed in Edinburgh’s “reabsorption” of neighbouring Leith in 1920 (Maver, 2008, p. 42).

One reason Glasgow’s surrounding burghs survived various boundary commissions was by countering the city’s arguments about “community of interest”. They did so by invoking antiquarian histories of their communities’ pre-police burgh antecedents, which they claimed gave them at least as much legitimacy and right to exist independently as the city itself.

² For detailed analysis of the rise and fall of the police burghs surrounding Glasgow, see Pugh, 2014a and 2014b.

Govan and Partick, the two largest and most populous police burghs bordering the city, as well as two of only nine Scottish communities – including Glasgow and Edinburgh – to have populations above 50,000 in 1900, were the most effective players at this game, and therefore the last burghs to be annexed (see Pugh 2014a, pp. 52-4). A related idea to Hobsbawm’s “invented tradition”, germane here, is Anderson’s concept of “simultaneity”, (1991, p. 24-7). Simultaneity explains community cohesion predicated more on sentimental and emotional ties than formal politico-legal ones (ibid). Emotive ties often entail particular understandings of past events and contemporary institutions and practices, which would not necessarily be seen by outside observers as causally connected. So simultaneity is more organic than the ceremonial contrivance marking Hobsbawm’s “invented tradition”, but both concepts together can help academics understand communities’ resilience. During their annexation battles, Govan and Partick’s civic leaders made much of their communities’ genuinely ancient (harking back to the Viking and medieval periods, respectively) provenance, belying their much more recent police burgh status (Pugh, 2014a, p. 53.) Both burghs’ local newspapers played a key role in promoting awareness of this antiquarian legacy (Pugh, 2011). Simultaneity and invented tradition are useful for making sense of community identity in Scottish localities throughout the upheavals of twentieth-century local government reorganisation, to which this analysis now turns.

Democracy versus efficiency: twentieth century developments

Scotland’s Victorian and Edwardian local state apparatus gradually became more rational and democratic, whilst remaining grounded in the country’s naturally occurring communities. For all the emphasis on local self-government, the autonomy of Scotland’s burghs was only relative, circumscribed by a complex legislative framework, and encroached on by an array of joint boards and commissions dealing with shared responsibilities for turnpikes, county

roads, police, prisons and school boards. McConnell noted that this system was “exceptionally complicated and diverse”, and overlain by a “virtually incomprehensible combination of shires, sheriffdoms, parishes, towns and counties” (2004, p. 46). In particular, the centralised system of county council and parish council administration implemented in the 1890s was seen by rising Labour politician and former Kirkintilloch magistrate Thomas Johnston, as inimical to grass-roots involvement in local politics and stifling of policy innovation (Maver, 2008, p. 42). The 1929 Local Government (Scotland) Act sought to streamline this system, such that 869 parish councils, 33 county councils and 200 burgh councils were replaced by 21 large burgh councils, 176 small burgh councils, three county councils and 196 district councils (Pugh, 2014b, p. 6). Overlapping arrangements remained for services like police, fire, valuation and social work.

These changes had been politically controversial, and the Convention of Royal Burghs (COSLA’s predecessor body), led by Hamilton Provost Sir Henry Keith, successfully secured multiple amendments to the original bill, diluting its stronger centralising tendencies and “preserving the integrity of the prevailing system” (Maver, 2008, p. 42). Labour and the Liberals formally opposed the bill, and many commentators objected to the elimination of smaller-scale local government institutions. But the government emphasised the supposed resulting gains in efficiency and professionalism, seeking to impress businessmen. I.G.C. Hutchinson noted the latter “resented local taxes and were themselves amalgamating and consolidating [their firms]” (2001, p. 52; Torrance, 2006, p. 116). The new distinction between “small” and “large” burghs, the latter of which, with populations below 20,000, had reduced status and powers, echoed Mabel Atkinson’s earlier criticisms of the patchwork distribution of local government institutions (ibid, p. 42). Given similarly unpopular reforms were passed for England the same year, it is probable the backlash on both sides of the border contributed to the defeat of the Baldwin government at that year’s general election (Pottinger,

1979, p. 35). As was seen above, Morton highlighted that nineteenth-century local self-government played a key role in sublimating demands for national self-government (in the form of a Scottish parliament or assembly). Such sublimation of overt nationalism had its limits, as was suggested in the involvement of Provosts Keith and Sir Alexander MacEwen (Inverness) in founding the Scottish Self-Government Party in 1932 (Maver, 2007, p. 43). Within a few years this party amalgamated with the new Scottish National Party (SNP), and both provosts had been inspired to found it by what they perceived as the “degrading” of the burghs as distinctively Scottish institutions. This diminution of Scottish local government’s status and autonomy, in the face of greater control and restructuring by the Scottish Office on behalf of successive UK governments, characterised the remainder of the century, as is seen below.

The advent of near universal adult suffrage, combined with the dominance of Keynesian economics and state intervention after the Second World War, saw local government throughout the United Kingdom acquire wider responsibilities and even less overall discretion than before (White, 2004). The new functions included, among others, town planning, social services and economic development (McConnell, 2004, p. 47). The 1960s Labour governments of Prime Minister Harold Wilson, with their vaunted focus on long-term planning and regional development, seriously doubted Scottish local government’s capacity to achieve these goals in its then form (Pottinger, 1979, p. 178; McConnell, 2004, p. 47; Maver, 2008, p. 44). In 1966, Labour’s Lord Wheatley was appointed head of a Royal Commission to investigate its structures, functions and possible reforms. The Wheatley report opened with the ominous – and, as is seen below, still resonant – assertions that something was “seriously wrong” with Scottish local government, and “a completely new structure” was needed (Wheatley, 1969, p.1). It drew renewed attention to convoluted and inefficient structures built on arbitrary boundaries, which provoked conflict and inhibited

smooth working across and between authorities (ibid, p. 32-4). It also challenged the large number of needlessly small local authorities, duplicating resources. Wheatley averred that all these problems meant the central state was, perhaps paradoxically, too involved in the minutiae of local governance: even if only to iron out jurisdictional disputes and inefficiencies in resource distribution (ibid, pp. 32-4). Wheatley further criticised the archaic workings of Scottish local authorities, predicated on “nineteenth-century elements” as barriers to public understanding and participation in local politics by ordinary citizens (ibid). Despite all this, Wheatley recognised the importance of a sense of local community embodied in municipal institutions, declaring that “a burgh does not cease to be a burgh because it is no longer a self-contained unit of local government” (ibid, p. 263; Maver, 2007, p. 44).

Such sensitivity towards local feeling did not prevent Wheatley proposing systemic reforms, including the formal abolition of the burghs and counties, which were replaced with a two-tier structure of large regional councils overarching various smaller district councils. The regional councils took responsibility for major planning, water and sewage, education, social work, housing, police and fire, realising previously untapped economies of scale, whereas the district councils focused on more localised services like local planning, housing improvement, parks and leisure, environmental health and licensing (McConnell, 2004, p. 48). Beneath these two tiers, which were compulsory in the Local Government (Scotland) Act 1973 (passed with Wheatley’s proposals largely intact under Conservative Prime Minister Edward Heath, reflecting a degree of bipartisan consensus on local government reform in this period), local communities also had the option to establish community councils (Pugh, 2014b, p. 7; McConnell, 2004, p. 49; Pottinger, 1979, pp. 177-8). These new bodies seemed to reconcile the voluntary and permissive aspects of the nineteenth-century framework with the deliberative scrutiny of councillors’ voting and administrative records in the old ward system, but in a twentieth-century context (Pugh, 2014b, p. 7). It is perhaps no

coincidence that, while the two-tier structure lasted only three decades, community councils still survive at the time of writing, despite their lack of statutory powers. Under the 1973 act, nine regions and 53 districts were established in 1975, as well as three unitary, all-purpose authorities for Orkney, Shetland and the Western Isles (McConnell, 2004, p. 49). By 1983, over 1,000 community councils had been set up, serving eight in ten Scots. In their early years, the new structures were criticised for perceived bureaucracy and remoteness from local people by the SNP, the Liberals and sections of the media, although this was debatable (McConnell, 2004, p. 49). The most abominable aspect of the new structures, as far as their critics were concerned, was the leviathan Strathclyde Regional Council, covering half of Scotland's population in the central belt (Pottinger 1979, p. 178). If balancing local democracy and economic efficiency is difficult, some systems come closer to achieving this than others (see Pugh 2014b, *passim*). In this context, the two-tier structure recommended by Wheatley was innovative, even if the drawing of regional boundaries was problematic.

Whilst the Wheatley reforms' critics had their grounds, so did those of the 1990s reorganisation, without similar levels of consultation or cross-party support. Just as the earlier shakeups in Scottish local government organisation had been influenced by fluctuating support for home rule, so was the move to the post-1996 structure of 32 unitary authorities. Margaret Thatcher, visiting Edinburgh soon after her appointment as Prime Minister in 1979, had promised "all-party talks aimed at bringing government closer to the people", as an alternative to Labour's aborted devolution proposals (Thatcher, 1993, pp. 35-6). However disingenuously, she conceded in her memoirs that "in the event we did so by rolling back the frontiers of the state". The Scottish Constitutional Convention of 1989-1995 was not quite 'all-party', given the SNP's withdrawal from it, and the Conservatives' refusal to participate. But it did involve other parties and a wide range of groups from civil society, including local authorities via their representative body, COSLA, which contributed significantly to its

funding. A significant outcome of the Convention was agreement, between Scottish Labour, Scottish Liberal Democrats and the SNP, that the introduction of legislative devolution in the shape of a Scottish parliament would justify the abolition of the two-tier structure (McConnell, 2004, p. 50). This was in large part to deflect accusations that legislative devolution would merely add another layer of elected politicians and, in essence, to avoid charges of over-governing.

Conversely, the Conservative-controlled Scottish Office was tempted to abolish large local government regions like Labour-controlled Strathclyde, covering over 40% of Scotland's population in the central belt. The concurring policies of rival parties made the Conservatives wary of pursuing this strategy, but ultimately did not deter them. From 1991, Scottish Secretary Ian Lang and the Scottish party leadership proceeded on these lines with minimal consultation. Opposition to the changes was muted, given that Labour and the Liberal Democrats supported unitary authorities, albeit they viewed them as a corollary to legislative devolution (McConnell, 2004, p. 49). The new structure took effect on 1 April 1996, following the Local Government (Scotland) Act 1994. The extent to which it resulted in a simplified, streamlined structure with local services gathered under "one roof" is contested, given the persistence of an unelected "second tier" above the unitaries in the form of (unelected) institutional cooperation between local authorities. Moreover, several commentators, not least the social democratic Reid Foundation, have highlighted low public awareness and understanding of local government structures and processes, as well as low participation in local elections (Bort et al, 2012, pp. 5-9). The Foundation's 2012 report on the "silent crisis" of Scottish local democracy paints a gloomy picture (ibid, p. 4):

[We] find a country which by many measures has one of the weakest local democracies in Europe. The distance between where people live and their first 'local' democratic structure is, in some cases, greater than the distance across entire EU

nations. The number of people it takes to elect a single councillor is ten times the European average. When local government in Scotland builds a ‘local’ school, it seems never to build just one. Instead it waits until it can build half a dozen schools in one contract as if a ‘big box’ approach is inherently better for everyone by dint of not being a local solution.

The long-awaited arrival of legislative devolution in 1999 did little to address these difficulties; indeed MacDonald noted that the arrival of the Scottish Executive / Government cemented the “Cinderella role” of Scottish local government in national life (2009, p. 199). In many ways, the power of policy initiative had migrated towards central / national government, whilst market reforms tended to recast local inhabitants as consumers rather than citizens (ibid). There is irony here, given COSLA’s leading role in the Scottish Constitutional Convention, which was in many ways midwife to the devolved Scottish Parliament (House of Commons, 2003; see also Gay *et al*, 1995, *passim*). This illumines both the longstanding strength of the connections between local government arrangements and wider constitutional questions, and that, to an extent, Scottish local government could be viewed as acting against its own interests in helping to establish the new Parliament. These centralising tendencies have been taken still further in the creation of Scottish national policing (Police Scotland) and Fire (Scottish Fire and Rescue) services - the efficacy and local accountability of which remain contested (see for example Dickie, 2015). (Readers seeking detailed information on relations between local authorities and the Holyrood Parliament in the devolved context should consult COSLA 2014a, and Scottish Parliament 2014.)

Plus ça change? Twenty-first century “community empowerment”

Since the 1970s there has been a greater degree of consensus between Scotland's political parties on the roles, structures, powers and constitutional status of local government than they would tend to admit. As was noted above, the Wheatley reforms were implemented on a bipartisan basis by a Conservative government, despite being originally commissioned by the preceding Labour government. Similarly, albeit for different reasons, the introduction of unitary authorities in the mid-1990s was welcomed in principle by Labour and the Liberal Democrats, despite their preference for this reform to accompany the arrival of legislative devolution. There is further consensus between the parties over the contracting out of council services to private enterprise and "arms-length" agencies, in line with a pattern which Rhodes famously characterised as the "hollowing out" of the state (1997, *passim*). Neither the Labour-Liberal Democrat Scottish Executive (1999-2007) nor the SNP (2007-) Scottish government have reversed these reforms.

There are also symmetries between current policies of "community empowerment" and Michael Forsyth's (Lang's successor as Secretary of State for Scotland) 1995 demand that all unitary authorities "must publish draft decentralisation schemes for their areas, for local consultation" (House of Commons, 1995, pp. 20-4). Such schemes were intended to further three key objectives: bringing services and decision-making closer to the people (a familiar Thatcher-esque phrase, as seen above) where this would result in improved services, enabling the public to influence and shape the design of council services, and to provide generally more effective and responsive local government. There was also an emphasis on the need for nebulously-defined "partnership" with a variety of governmental and non governmental actors, "not least the private sector" in making and delivering policy (*ibid*, p. 20). On a related note, Forsyth enjoined the new unitary authorities to embrace the principle of subsidiarity, in the form of delegating much decision-making and operational oversight from the council chamber to various local bodies, including community councils, residents'

associations, tenants' associations and school boards (ibid). He acknowledged that such bodies attracted "little interest and support" but averred this was simply because "they are not given enough to do".

Twenty years on, the Scottish Parliament has passed the Community Empowerment (Scotland) Act 2015, with almost unanimous and cross-party support: 101 votes to nil with 15 abstentions (Anonymous, 18 June 2015). Conservative Members of the Scottish Parliament abstained on the grounds that the bill gives too much power to Scottish ministers in the event of appeals over refusal by councils to grant community groups' requests; they argued for clear regulations about these matters, avoiding the need for ministerial discretion (ibid). The Act gives community groups a greater say in the use of vacant land and buildings, and in the running of local services. Significantly, and inadvertently echoing the discourse of Victorian and Edwardian boundary disputes discussed above, the Act could be invoked by "communities of *interest*" sharing an interest, background or activity, as distinct from communities of *place* formed of local inhabitants (ibid).

Notwithstanding the near unanimity involved in the Act's approval by the Scottish Parliament, it has been the focus of criticism by a variety of commentators, including the present author, for being insufficiently radical in terms of the degree and range of powers devolved to local communities (see for example Pugh and Connolly, 2014, and COSLA 2014b). It can also be interpreted as inadvertently privileging elite participation. Middle class communities are equipped with expert knowledge and understanding of policy and legislation, and so are likely to benefit disproportionately from community empowerment, thereby further entrenching social inequality. COSLA, commenting on the draft bill, had two key concerns: first that the bill should take the opportunity to enshrine local self-government in law, in line with the 1985 European Charter; second, that given the bill imposes new duties on local authorities, these should be financed and resourced by central government, and

therefore become cost neutral to local government (COSLA, 2015b). Whilst COSLA's recommendations in this context could be uncharitably viewed as self-serving to the point of facetiousness, they do serve to highlight the longstanding vulnerability inherent in Scottish (and indeed UK-wide) local government's lack of entrenched constitutional status, as well as its reliance on the central state for funding.³ In the concluding section of this article, the analysis opens out to reflect on the remarkable continuity between Scottish local government's present predicament and earlier forms of (sort of) community empowerment. What lessons can be learned, and how rigid is the border between central and local government power? Is local government a mechanism for, or an obstacle to, genuine community empowerment?

Conclusion

Despite its recent coinage in the context of Scottish Parliament legislation, there is a sense in which a perennial debate over what "community empowerment" can and should mean in reality has characterised local government arrangements in Scotland since 1832. This has been reflected in successive laws and redrawing of the local government map, as well as in the migration of relative autonomy from the local to the central state (i.e. Lords Advocate until 1885, Scottish Office until 1999, and thereafter the Scottish Executive / Government). Given the increasing demands on the *state* in general, in an age of universal welfare provision underpinning basic human rights, the reluctance of the centre to risk much by way of local discretion is probably understandable, if far from ideal. The enabling framework, established and refined in successive general police acts between 1833 and 1890, encouraged local self-government on a micro-level that was ultimately unsustainable. Twentieth-century reforms

³ It should be noted that COSLA is itself in the grip of a disaffiliation crisis which has led to the formation of rival representative bodies for certain councils, analysis of which lies outside the scope of this article. See for instance Anonymous, 5 March 2014.

gradually eroded the most meaningfully *local* aspects of local government. But perhaps the 2015 Community Empowerment Act really does offer local communities the opportunity to redress the balance in their favour.

In this context, there is some symmetry between the enabling “spirit” of the nineteenth-century police legislation and the philosophy underpinning the 2015 legislation. Both had the potential for local citizens to take control of, or even create for themselves, local institutions and amenities for the benefit of their communities, with countervailing risks of entrenching middle-class privilege at the inadvertent expense of the less affluent, in an environment where the central state’s role is increasingly hands-off. Important differences remain. The general police framework, for all its flaws, strengthened and built up the local state, whilst community empowerment, with the best of intentions, has the potential to speedily eviscerate its discretionary functions. In sponsoring the 2015 Act, the Scottish Government has been emphatic in ruling out further top-down reform of Scottish local government structures as a means of reconciling local citizens with their local states; in this sense community empowerment may be the only game in town. While there could be merits in more radical reform of the local state itself, including the entrenchment of its status in constitutional law, it is also fair to say that none of the previous reorganisations has brought about a perfect system. Perhaps this is beside the point. Echoing Bauman on the inevitable imperfection of real life communities, no system of local government is perfect, and any organisational structures should be viewed merely as “interim solutions” benefitting from ongoing scrutiny and iterative improvement (2001, pp. 5-6). If the history of local government in the Scottish context over the past two centuries reveals anything, it is the need for constant vigilance of, and action to maintain and reasonably adjust, the boundary between local and central decision-making.

If the Scottish Parliament in its present devolved form is in many ways the product of Scottish local government's participation in the Constitutional Convention, perhaps the time has come to reciprocally develop a more effective and harmonious relationship between parliament, council chambers and communities. Assuming Winnie Ewing - channelling some of Anderson's "simultaneity" discussed above - was correct that 1999 saw the "re-convening" of the Scottish Parliament rather than the creation of a new one, it is odd that local government was not represented institutionally within it, given the centrality of the ancient burghs to the original body (see MacDonald, 2013, p. 11). Whilst Mill's preference for elitist expertise over local democracy is not easily reconciled with the present-day context, there still remains a strong argument for entrenching the constitutional status of local government: as a bulwark against both the vicissitudes faced by local inhabitants in a globalising world, and a centralising state which, irrespective of party control, tends to be happier devolving responsibility than power.

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