Committee Hearings of the Scottish Parliament: Evidence Giving and Policy Learning

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The Scottish Parliament's committees were designed to provide both an alternative policy agenda to government and a venue for debate and policy learning among a broad cross-section of organised interests and citizens. Work to date suggests the former has not materialised, but what about the latter? This article reports fresh data on the contribution of committee 'hearings' to (i) broadening the scope of 'interests' heard by Parliament, and (ii) facilitating policy learning among organised interests. Despite the Parliament's founding vision advocating a move away from 'the usual suspects', the evidence shows that hearings across issues and committees feature a recurrent core of organisations which exemplify the 'usual suspects' label, alongside a large number of 'policy niche' specialists. In relation to policy learning, the evidence shows that respondents view committee hearings favourably, with low levels of process dissatisfaction and a considerable minority of respondents shifting views as a result of participation.

Introduction

The committees of the Scottish Parliament attract scholarly attention principally because of their comparatively important legislative role, at least in comparison with Westminster. Scottish committees combine legislative work with inquiries, and they have the power to initiate bills. While, on paper, they have considerable powers – Cairney (2006, p. 183) suggests they would be considered to have 'high' strength on existing comparative measures – the evidence so far suggests that committees *have not* taken up the policy initiation function to any great extent. There is something of a consensus emerging that – assessed on legislative impact alone – Scottish parliamentary committees have been somewhat disappointing (see Arter 2004, Cairney 2006). However, somewhat lost in this hard-nosed discussion about legislative role is the broader issue of the contribution of committee hearings to (i) broadening the scope of 'interests' heard by

Parliament, and (ii) facilitating policy learning among organised interests. In this article we take some first steps in each of these directions.

The Consultative Steering Group (CSG) responsible for the Scottish Parliament's institutional design invested considerable hope in the prospect of parliamentary committees enhancing the role of civil society[1] in the legislative process. The stated intention of the Parliament's architects was 'an open, accessible and, above all, participative Parliament', which would 'take a proactive approach to engaging with the Scottish people – in particular those groups traditionally excluded from the democratic process' (CSG 1998, 2.4). By making the system more participative, the CSG believed that better legislation would result (CSG 1998, 3.5.4). Bringing the people to the Parliament and vice versa could, it was suggested, be in part achieved by the work of committees (CSG 1998, 2.9, 2.18). The intention was to correct what was – rightly or wrongly – viewed as the dominance of political life by powerful but narrow interests: the code for which was 'the usual suspects' (for example, CSG 1998, Annex D.7.1). As McGarvey and Cairney (2008) make plain, the usual suspects tag was always going to be hard to nail down. In practice, commentators often press into service phrases such as the 'gang of five' – the large business organisations including the Confederation of British Industry and Chambers of Commerce (see McGarvey and Cairney 2008, p. 236) – to communicate the idea of a core set of important organisations; and perhaps if a survey of commentators was done it might yield a list of such groups as SCVO (Scottish Council of Voluntary Organisations), COSLA (Convention of Scottish Local Authorities), STUC (Scottish Trade Union Congress), the Law Society and the NFUS (National Farmers Union Scotland). However, the Consultative Steering Group (CSG), established to devise the core principles for the new Scottish Parliament, made it clear that in addition to access for 'policy specialists', it wanted to see opportunities for participation in the process of policy formation opened up to other organisations and individuals, with a particular emphasis upon securing the involvement of those traditionally excluded from the political process (CSG 1998). Again, who these might be is largely left unspoken, but on the basis of the CSG's consultation and deliberations (see CSG 1998, Annex D), we do not believe it to be controversial to suggest that this included social constituencies such as the disabled, children and young people, and the BME (black and minority ethnic) community.[2] This begs the question: who *does* engage in the work of the Scottish Parliament's committees? As a first step, this article provides a largely descriptive account of the groups, organisations and individuals who have given evidence to the key committees of the Scottish Parliament in the first two sessions. We are concerned with which organised interests are present in evidence giving, and to compare and contrast that with the aspiration outlined above.

Our second substantive focus is on policy learning. We do not refer to the policy learning literature which focuses on the way one government learns from the experiences of others (see, for example, Rose 2005). But, rather, we focus on the ways in which governing institutions can stimulate reflective and

critical thinking among the public which might enable a strategic or long term style of policy making (see discussion in Yankelovich 1991, Marsh and Miller 2012).

The committees of the Scottish Parliament operate hearings both to review bills and to explore issues that are of concern to the Scottish public (and within each committee's remit). Viewed from the perspective of 'lobbying', evidence giving could be construed as a one-way attempt to exercise influence. This suggests little prospect for dialogue or new understandings. However, hearings – even those pertaining to bills – often have a fact-finding element which may serve to foster learning among direct participants *and* the broader community. In this connection, Ian Marsh (1986, p. 157) has discussed the way the participation of groups in consultations and hearings contributes to *their* 'social learning'. He suggests that administrative policy consultations are often private in nature; they are written, and largely technical affairs, which do not facilitate the challenging and testing of arguments. Moreover, they do not encourage organised interests to do more than re-state their sectional views on pre-set agenda items: there is little incentive or even room to shift positions (however slightly). Marsh (1986, p. 151) has advanced the argument that committees – and organised interests giving evidence to such committees – can offer a more discursive arena for organised interests. Early work focused upon the possibilities and prospects for using Westminster select committees to enhance political learning (Marsh 1986). This critique has subsequently been extended to the Australian context (Marsh 1995). For Marsh (1995, p. 5), committee hearings may see Parliament move from a 'ritual' place in the policy process and towards 'a renewal of its deliberative capacity'.

This broad approach is, at the very least, sympathetic to the general thrust of the 'new politics' narrative developed around Scottish devolution. Although discourse around 'new politics' featured prominently during the 2010 UK general election campaign, the concept had been used in Scotland a decade earlier to describe the novel features of a devolution settlement which would ostensibly be more in tune with Scottish cultural and political sensibilities than Westminster (Wright 2000). This included the creation of new institutions and new parliamentary procedures which would both draw strength from and, in turn, nurture a new political culture which was to be more consensual and participatory (Mitchell 2000).

In this article we explore this aspect of committee work in the Scottish Parliament by reporting the results of a survey of organised interests that have participated in committee work. We probe the way in which their participation in evidence giving contributed – in their estimation – to their understanding of the issue and their position on that issue. Of course, there is no reason why this aspect of the Parliament's work *should* be enhanced – say, for instance, compared to Westminster select committees – by the broader institutional design of the Scottish Parliament. However, future work comparing Scottish findings with those in the UK, Australian and New Zealand parliaments will better probe this question.

Who Gives Evidence to Committees of the Scottish Parliament?

If committees are crucial to the project of a 'new politics' in Scotland, how have they performed? As noted above, the role of committees in amending legislation – thus fettering the power of the executive – has been studied (Shephard and Cairney 2005) and other work has focused upon workloads and related legislative tasks (Parry 2002, Mitchell and Bradbury 2004). Here we consider their role in engaging with organised interests and drawing them into the work of the Parliament. We report analysis of who gives evidence to Scottish Parliament committees in its two modes (scrutiny of legislative bills and inquiries into specific subjects). We do not attempt to draw conclusions about the relative influence of different groups on committee policy. Instead, we provide a picture of the level and extent of group involvement in Scottish Parliament committee activity. As such, we hope to provide a complementary thread to a literature hitherto dominated by considerations of committee influence on legislative output.

Data Source

To quantify participation in parliamentary committee work in the legislative process, we generated a dataset based upon the activities of the committees of the Scottish Parliament in Sessions One (1999–2003) and Two (2003–07). The dataset is based upon information taken from the Scottish Parliament's website,[3] including the Official Report, minutes of proceedings, and information on written and oral evidence (including digital copies/transcripts of evidence where possible) (Scottish Parliament 2007).

We began by examining the legislative role of committees. Given the importance of Stage One of the legislative process as the point at which non-MSPs (Members of the Scottish Parliament) are most likely to be involved, the Stage One process of each bill considered by the committees since 1999 was studied, with a view to determining where evidence came from, and what form this took.[4]

Following consideration of the Stage One reports, the data extracted were then triangulated with the Minutes of Proceedings, the Official Report and the Committee Papers published for each committee meeting, which also contain details of any written evidence received or oral evidence being taken by the committee in question. As a result, the dataset obtained provides a reliable and exhaustive account of Stage One participants in the legislative work of committees in Sessions One and Two of the Scottish Parliament. Although the data covers all of the Parliament's subject committees in their various guises between 1999 and 2007, we excluded from the analysis several of the mandatory committees due to the internal nature of their remit. For the purposes of clarity, the mandatory committees excluded were: Finance; Standards (1999–2005) and its successor, Standards and Public Appointments (2005–07); and Subordinate Legislation. Four mandatory committees (Audit; Equal Opportunities; Europe 1999–2003 and its successor, European and External Relations 2003–07; and Procedures) were included as their respective remits are more public in scope.

In addition, whilst the Public Petitions Committee (PPC) is perhaps the most prominent attempt to introduce a more participative style of politics and has attracted much international academic interest, it is also excluded from our analysis. Whilst the PPC's work is based entirely upon public participation, this is not always done in the context of legislating *per se*.[5]

What we are left with is a set of committees whose functions are broadly similar: 'the development, consideration and scrutiny of policy and legislation' with a direct and discernible impact upon members of the public (CSG 1998, 2.2).

However, as identified above, committees also have a significant power of inquiry which affords them the opportunity to engage with members of the public and organised interests. Thus, in addition to the scrutiny of the Stage One process for legislative proposals, a similar process was conducted using the final reports of inquiries carried out by committees during Sessions One and Two.[6]

In total, the dataset logs 13,746 instances of evidence giving from 3083 distinct organisations in 269 hearings (that is, Bills and Inquiries). Table 1 summarises the number of hearings in the dataset by type and session (these numbers do *not* accord with numbers given by the Parliament itself as we are more selective in the committee and stages that are covered). For additional background, 6717 instances of evidence were given to bill-related hearings, and 7029 to Inquiries.

In the absence – to our knowledge – of a definitive list, this is the most reliable, accurate and transparently determined set possible under the circumstances.

Mix of Participants?

Previous work by Bonney (2003) has investigated the degree to which the work of committees tallied with the concept of participatory democracy, to which frequent reference was made by the CSG in its aspirations for the new Parliament. Bonney concluded that rather than involving a significantly broader spectrum of stakeholders (particularly service users), a usual suspects culture had developed, whereby specific committees had become dependent upon particular interest groups (for example, the Justice Committees and the Law Society Scotland). In addition, Bonney (2003, p. 465) found an over-representation of the groups which had previously been involved in the work of the CSG (for example, the SCVO), concluding that 'if this was participative democracy at work, it was again the participative democracy of organised interests'.

Table 1: Committee Workload, by Session

Session	Bill	Inquiry	Total
1	55	84	139
2	55	75	130
Total	110	159	269

On the basis of these earlier findings elsewhere, when we set out to construct a list of who gave evidence to committees, we also assumed that we would see interest groups – collective organisations engaged in policy influence – as the most frequently represented. We were wrong. Table 2 shows the number of organisations that have responded to committee hearings. The 'actor' figures count each organisation only once per hearing, while 'activity' allows multiple instances of evidence giving to a single hearing. The initial finding is that different levels of government are the largest single category of actor (regardless of which counting method is applied). On reflection, this is perhaps not surprising: after all, it has been argued that the 'consultative' system involving organised interests and the bureaucracy is more attractive for interest groups than Parliament (see Jordan and Richardson 1987, Richardson and Jordan 1979). These results could be viewed as confirming that groups are engaging elsewhere. But, as reported in other work, the pattern of government consulting or 'lobbying' government is also repeated in Scottish government consultations (see Halpin and Baxter 2008).

As the Scottish government initiates the vast majority of legislation in Scotland, the primary responsibility for pre-legislative consultation is its, although the CSG makes it clear that the committees are entitled to conduct additional consultation as they see fit, including with parties which may already have been consulted by the government or with government representatives themselves (see CSG 1998, 3.5.5–3.5.6). In addition, as Marsh (1986, p. 164) noted in his examination of select committees at Westminster, the most important 'interest group' are the 'departments'. Much committee time is spent talking to different levels of

Table 2: Distribution of Mobilisation by Actor Type

	Activity		Actors	
	Frequency	%	Frequency	%
Government	5255	38.2	3738	46.3
Individuals	2491	18.1	–	–
Citizen Groups	2320	16.9	1702	21.1
Professional Groups	1204	8.8	801	9.9
Business	779	5.7	627	7.8
Business/Trade Assoc.	760	5.5	505	6.2
Trade Unions	308	2.2	205	2.5
Service Charity	259	1.9	203	2.5
MP, MSP, etc.	252	1.8	208	2.6
Religious Org.	107	0.8	82	1.0
Unknown	11	0.1	11	0.1
Total	13746	100.0	8225	100.0

Note: 'Activity' refers to total evidence given and counts multiple submissions from the same actor to the same hearing. 'Actor' only counts the first time that an actor gives evidence to each individual hearing. Individuals are removed from count of actors as we could not accurately code each distinct individual.

government. Interviews with clerks suggest this may – in part, and in the case of bill hearings – owe to the practice of inviting proposers and bill-team members to give evidence at the start and conclusion of hearings. However, this does not account for the heavy presence of local government and agencies.

The second point relates to the involvement of citizens, either as individuals or as members of citizen groups. It is salient that these respectively constitute the second and third most active types of actors after government. This is important given that committees have the task of engaging with civil society (broadly speaking, individuals and – more typically – groups, that represent neither the economy nor the state). A large number of individual citizens clearly *do* participate in committees, either individually or as part of a civil society grouping.

A committee will typically ask for written evidence in advance of any hearings. At the hearings, oral evidence will be taken from actors *by invitation*. By definition, the time available for oral evidence is *very* limited. Limited hearing times would enforce a selection of only those groups that were important enough, with established reputations or expertise, to be invited by committee clerks. For these reasons, in analysis of US congressional committee hearings an invitation to give oral evidence is used as a proxy for privileged access and hence status (see Berry 1999). Although space precludes us from reporting data by evidence type, we have conducted the analysis, which shows that for Scotland this picture did not change much when we looked at different evidence types. The only exception is for individuals – the bulk of the evidence given was written, with few invited to give oral evidence.

The Most Frequent Participants?

It is almost impossible to assess the influence of organised interests in policy making processes (although see Dür and De Bièvre 2007). It is bedevilled with empirical and conceptual difficulties; and, in this case, we do not attempt to do so. Rather, we are concerned with 'presence'. The question of what mix of interest organisations is involved in policy debates is salient because it goes to the heart of concerns with a 'bias' inherent in democratic modes of representation (see Schattschneider 1960). There is a concern that the population of organised interests engaged in policy deliberations should not be *dominated* by a gaggle of central actors.[7] It is not necessary to review these debates here. For the purposes of this study it is perhaps more important to reflect on the devolution aspiration to avoid a reliance on 'usual suspects'. As noted above, it is hard to pin down precisely what organisations or interests are referred to when this phrase is mentioned, but it is safe to assume it includes, for example, the large business groups, COSLA, SCVO and the STUC. Given the paucity of empirical work on committees, the only hint we could find to set our expectations was an early study of select committees in Westminster. Here, Marsh (1986, p. 166) observed that very few organised interests gave evidence to more than one inquiry. We find a different picture: with a small number of very broadly engaged policy participants.

Who then are the most frequent participants in Committee hearings? As Table 3 reports, what is notable is the number of Scottish Executive/Government Departments represented on the list. One of the roles of parliamentary committees is executive oversight and scrutiny. It is perhaps, therefore, reasonable to expect that departments and ministers are routinely asked to give evidence to committees – and actively seek to furnish committees with evidence. Beyond that, local authorities are very well represented, with their collective body. the Convention of Scottish Local Authorities, being the organisation with the single highest level of participation. This perhaps reflects the role of local authorities in implementation issues, and the role of COSLA in representing the views of local authorities over funding matters.

There is an unstated assumption implied by the talk of 'usual suspects': namely, that having a set of numerically dominant or broadly engaged organisations is a threat to democracy. And, in a related way, there is the democratic argument for all views being heard will improve – not to mention legitimate – policy making. Yet there is an equally valid view that some measure of

Table 3: Top 28 Policy Participants (1999–2007)

Participant	Activity	%	Rank
Scottish Executive (Crown Office, Health Department, Unnamed Dept.)	337	3.0	1
COSLA	196	1.7	2
Law Society of Scotland	104	0.9	3
Glasgow City Council	87	0.8	4
Edinburgh (City of) Council	78	0.7	5
UNISON Scotland	76	0.7	6
Scottish Trades Union Council/Congress	74	0.7	7
Highlands and Islands Enterprise	74	0.7	8
Association of Chief Police Officers in Scotland	74	0.7	9
Scottish Enterprise	68	0.6	10
Scottish Natural Heritage	67	0.6	11
Highland Council	66	0.6	12
Glasgow University	63	0.6	13
Scottish Consumer Council	61	0.5	14
Federation of Small Businesses	53	0.5	15
Scottish Executive – Minister for Justice	51	0.5	16
Association of Directors of Social Work	47	0.4	17
British Medical Association – Scottish Office, Edinburgh	45	0.4	18
EIS	44	0.4	19
Edinburgh University	44	0.4	20
Strathclyde University	43	0.4	21
Scottish Environment Protection Agency	43	0.4	22
Dundee City Council	42	0.4	23
Scottish Environment LINK	41	0.4	24
Fife Council	41	0.4	25
Faculty of Advocates, Edinburgh	40	0.4	26
Confederation of British Industry – Scotland	40	0.4	27
South Lanarkshire Council	39	0.3	28
Top 28 Total	2038	18.1	–
Total	11255	100.0	–

strategic policy capacity is derived from fostering organised interests that are able to work across policy sectors (see discussion in the US by Browne 1990). Such organisations *may* be able to assist government to balance out interests and take a long view in the public interest. No attempt is made to conclude this debate satisfactorily here. However, our data does seem to lend weight to the empirical case that there is a concentration of usual suspects, and that they tend to engage heavily across a large minority of issues debated in committee hearings.

It was initially envisaged that the engagement of citizens in committee work – particularly from marginalised social constituencies – could be achieved through innovative mechanisms like the co-option of non-MSPs onto committees or the use of consensus conferences. However, when the possibility of co-option was raised in 1999 in response to a lack of ethnic minority MSPs, the legal advice given to the Scottish Parliamentary Corporate Body established that the only non-parliamentarians permitted to participate in the work of committees were the Lord Advocate and Solicitor General (Procedures Committee 2000, Col. 310). More recent guidance to committees on their operations also makes this point expressly:

> The general rule is that only members have the right to participate in the proceedings of the Parliament, which includes proceedings in committees. This stems from an interpretation of the Scotland Act 1998 in which provision is made in section 27 for the Lord Advocate or Solicitor General to participate in the proceedings of the Parliament if they are not members of the Parliament. It therefore follows that, in the absence of any further such special provision, participation in the proceedings is otherwise restricted to members. (The Scottish Parliament 2007, 4.22)

Thus, 'participating' in the 'proceedings' of the Scottish Parliament is precluded. However, this raises issues of definitional boundaries: how is not being able to participate in parliamentary proceedings reconciled with the CSG's vision of a participative parliament? Guidance to committees on the role of public participation in their work suggests that the difference lies in the exercise of decision making authority; that participation becomes problematic when it reconfigures power dynamics between parliamentarians and non-parliamentarians. Although the Parliament has produced numerous briefing papers, research notes and public guides on participation, this is most clearly spelled out in the Parliament's *Participation Handbook*, which outlines acceptable participation as follows:

> An active relationship and dialogue between people and the state. It is not only gathering evidence and opinions but is an educative, discursive and inclusive process that has value in itself in building fuller citizenship. *It is seen as a means of strengthening representative democracy rather*

than being in opposition to it, or offered as an alternative model. (Scottish Parliament 2004, p. 2; emphasis added)

Thus, the representation of interests since 1999 has typically occurred within a relatively standardised representative democratic approach, with committees gathering written and oral evidence from interested parties, rather than involving them directly in their consideration of an issue. This process has typically sought to involve groups which exercise at least some degree of representative mandate in relation to their social constituency, although efforts have been made by some committees to innovate within the standardised format, leading some third sector organisations to talk about the occasional use of a 'consultation plus' approach: for example, by holding civic engagement events or round-table discussions, or the use of the continental 'reporter' system (MacLeod 2009).

Nevertheless, we have seen that, in aggregate, citizen and voluntary groups are not the most active groups. But are they active in key committees, where we would expect them to focus their attention? We find some evidence of policy specialists, those that are high profile *within their policy specialism.* To get a sense of this phenomenon, we prepared lists of the top 10 most frequent participants in each committee. We found the presence of many of our top 28 actors, interspersed with organisations that had a more narrow focus. For instance, Shelter (Scotland), Barnardo's Scotland, and Children in Scotland are all in the top 10 most active participants in hearings held by the Communities Committee – yet none appears in our top 28. Similarly, in the Environment and Rural Development Committees the Scottish Crofting Foundation, NFUS and Forestry Commission (Scotland) are in the top 10 most frequent participants, but also outside the top 28 overall. These groups remain heavily active within their policy niche.

Marginalised Interests?

The same basic concern can be tackled from the other direction: how active are organisations of marginalised groups? Recall that the Parliament was tasked with trying to engage better with marginalised groups; a task which is notoriously difficult for most political institutions! To establish this, we identified those organisations that could reasonably be interpreted as advocating for the interests of one or more of several social groups which might be thought of as politically marginalised or disenfranchised. We studied two of each category: for marginalised groups, we consider the BME population and the disabled community; for effectively disenfranchised groups we consider the homeless and the immigrant/refugee community.[8] As a group which is both marginalised and (for at least a significant minority) disenfranchised, we also consider children and young people. For each of these groups, we stratified the wider dataset to consider only those hearings which have a direct discernible impact upon these groups. In some cases, this relates to hearings specifically focusing upon them, but in many cases the issue is of relevance to these groups because of some unique impact which it has upon them.[9] Of course, this is not to state that these

constituencies would only hold an interest in narrow, niche issues which have a direct impact upon their wellbeing. Indeed, they may well have a very strong interest in other issues which might not be thought of as having a direct influence upon them: for example, the Scottish Youth Parliament played a prominent advocacy role in the *Make Poverty History* campaign in Scotland. However, when considering the participation of marginalised or disenfranchised communities in the work of committees, we believe it is only reasonable to begin doing so by focusing upon those areas where we would most expect stakeholders from these communities to hold a strong interest. Table 4 shows the prevalence of issues relevant to these social constituencies. Of the social constituencies identified, by far the most frequently affected by committee issues was children and young people (23.4 per cent of all issues), with the disabled community the next most prevalent (7.8 per cent of all issues).

Having selected a sub-sample that includes only these issues, we consider who the most frequent participants are in relation to these issues. Table 5 shows that even in relation to these specialist areas, the most active contributors are generalist organisations, particularly those from the public sector (that is, national and/or local government). A distinction can be drawn in terms of the types of group that *do* actually represent these constituencies. Overwhelmingly, the organisations in question offer a form of indirect or vicarious representation: in other words, it is rarely members of these constituencies themselves who participate, but rather agents who aim (albeit benevolently) to articulate their views. For example, whilst the most direct vehicle for youth participation would be the involvement of youth forums, the Scottish Youth Parliament or the NUS (National Union of Students), it is in reality organisations such as Children in Scotland, Children 1st and Barnardo's Scotland which are most active on 'youth issues'. This supports Bonney's (2003) claim that 'service users' tend to be involved far less frequently by committees than are more broadly based, professionalised, generalist groups. Again, this is *not* a criticism in itself, as this is what prevailing pluralist logic would expect the Parliament to do. Furthermore, it reflects the practical challenges to be found in attempting directly to enfranchise and mobilise such groups (see Baggott *et al.* 2005). However, given that the CSG aimed to enable groups *and* individuals to influence the

Table 4: Total Marginalised/Disenfranchised Issues (1999–2007)

Constituency	Inquiries		Bills		Total	
	Count	%	Count	%	Count	%
Children and Young People (CYP)	36	22.6	27	24.5	63	23.4
Disabled (DIS)	11	6.9	10	9.1	21	7.8
Black and Minority Ethnic (BME)	12	7.5	2	1.8	14	5.2
Homeless (HOM)	2	1.3	5	4.5	7	2.6
Immigrants/Refugees (IMM)	2	1.3	1	0.9	3	1.1

Table 5: Top Policy Participants, Marginalised/Disenfranchised Issues (1999–2007)

CYP Issues		BME Issues		DIS Issues		HOM Issues		IMM Issues	
Organisation	%	Organisation	%	Organisation	%	Organisation	%	Organisation	%
Scottish Executive	1.5	Disability Rights Commission	1.2	Convention of Scottish Local Authorities	1.3	Scottish Executive	3.3	Equal Opportunities Commission	4.0
Convention of Scottish Local Authorities	1.3	Save the Children	0.9	Disability Rights Commission	1.1	Convention of Scottish Local Authorities	3.0	Faculty of Advocates	4.0
Educational Institute of Scotland	0.9	Equal Opportunities Commission	0.8	Association of Directors of Social Work	0.9	Law Society of Scotland	2.7	Law Society of Scotland	3.0
Association of Directors of Social Work	0.8	Commission for Racial Equality	0.7	Capability Scotland	0.9	Council of Mortgage Lenders	2.4	Scottish Executive	3.0
UNISON	0.7	Association of Chief Police Officers in Scotland	0.7	Scottish Executive	0.8	Shelter	2.4	Scottish Human Rights Centre	3.0
Children in Scotland	0.6	Principal Procurator Fiscal Depute	0.6	Law Society of Scotland	0.7	Scottish Council for Single Homeless	2.1	University of Glasgow	3.0
Barnardo's Scotland	0.6	Scottish Executive	0.6	Royal College of Nursing	0.7	Chartered Institute of Housing in Scotland	1.8	(Individual) David Martin MEP	2.0
Association of Chief Police Officers in Scotland	0.6	Scottish Human Rights Centre	0.6	UNISON	0.7	Citizens Advice Scotland	1.8	(Individual) Lord McCluskey	2.0
Children 1st	0.6	Scottish Trades Union Congress	0.6	University of Glasgow	0.7	Scottish Homes	1.8	Amnesty International	2.0
Scottish Parent Teacher Council	0.5	Angus Council	0.5	Community Care Providers Scotland	0.6	Disability Rights Commission	1.2	Campaign for Freedom of Information in Scotland	2.0

Note: In each case, percentage figures relate to the percentage of all activity on issues relating to the social constituency in question.

Parliament's agenda, some may argue that this does not represent 'the empowerment of external groups *and individuals* in *all sectors* of Scottish society' that they envisaged (CSG 1998, 2.21; emphasis added).

Committee Hearings, Organised Interests and Policy Learning?

Having explored the patterns of participation in the foregoing section, this section explores the contribution that committees make in relation to policy learning. Specifically, we assess whether (i) the *process* of evidence researching and giving adds to the sum of publicly available knowledge, (ii) participants learn about the issue (either to clarify their own views or to learn more of the other side's views) and (iii) participants modify their positions. To explore these types of questions we surveyed organised interests that had participated in Committee hearings.[10] The database included all organised interests, including parliamentarians, but excluded individual citizens. Consistent with the dataset described above, hearings of mandatory committees were excluded. In order to target those who had recently engaged in such a hearing, we chose a population of those who had given evidence to a bill or inquiry hearing between January 2006 and May 2007 (end of the second parliamentary session).[11] We produced a list of 1071 organised interests. We were using a web based survey, and could find email contact details for 666 of those organisations. In 2008 we sent an email invitation to this sample, followed by three reminders. This yielded 110 usable responses, a response rate of 17 per cent.

Knowledge Production?

To what extent do organisations participating in hearings generate new information and knowledge? The process of preparing submissions could, in principle, be a positive by-product of hearings. They may stimulate debate within the organisations that advocate for different interests. Based on survey responses, we found that in preparing their submissions, relatively few organisations indicated that they consulted members or formed a taskforce. However, the majority of organisations indicated that they – to some extent – utilised their 'general knowledge of the issue', 'contacts with other organisations' and 'informally consulted with selected members of their organisations with special knowledge'. The distribution of knowledge is, it would seem, facilitated by those who participate. Of the organisations surveyed, 79 per cent said they received a copy of the committee results and 75 per cent circulated findings of the inquiry to their members.

Learn about an Issue?

What about the learning extracted as a by-product *from participating* in the hearing? We asked respondents how important for their organisation they believed the new information, obtained as a result of participating in the inquiry process, to be: 45 per cent of organisations agreed or strongly agreed it was important; 48 per cent said it was of minor importance.

To a related question, 48 per cent of organisations said that the inquiry process was important because 'new information was obtained about government policy or government perspectives'; 41 per cent said it was of minor importance.

Generally, finding out about their members' views was seen as a less important outcome. While 47 per cent of organisations again said that the inquiry was important because new information was obtained about their own organisation's members' attitudes, 32 per cent said that *no* new information on their members' attitudes was obtained through the inquiry process. One reviewer of the paper suggested that these findings are not dissimilar to those of Carman (2006) in respect of the impressions of those who participated in the work of the Public Petitions Committee. We do not believe that this comparison was intended as a criticism; nor do we take it as such. Rather, it points to the basic premise of the work presented here: namely, that participation can have its own reward. The nature of our data is such that it asks participants to reflect on their 'latest' experience with inquiries. To 'beef up' the results, future work may want to explore the precise mechanisms by which learning takes place, and to nuance the types or depth of learning that various forms of political engagement yield. But for now, with the evidence to hand, we can simply say that many participants assess the outcomes of such exercises in terms other than outright 'influence'.

Shift in Views?

The notion of policy learning implies that organised interests will, through an inquiry or similar process, find out about other views, rehearse arguments and reveal information, *and as a consequence may shift their views*. We probed this idea by asking organisations whether their experience of the inquiry had any effect on their organisation's position on the issue at hand. Thirty-five per cent agreed that their participation had not shifted their views. However, 32 per cent were of the opposite view, suggesting they had shifted positions. Thirty per cent of respondents were neutral on the question.

Hearings can also be about generating new information and insights for organisations that participate. We asked organisations how important inquiries were in relation to obtaining new information about governmental attitudes or judgements. Fifty-two per cent of the organisations surveyed indicated it was important, and 39 per cent suggested it was of minor importance. But was participation in an inquiry helpful in developing an organisation's positions on other issues in which it was interested? Thirty-seven per cent of organisations said it was helpful, but a similar proportion (36 per cent) was neutral, while 25 per cent said it was not relevant.

One hallmark of a capable and legitimate policy system is when organised interests generally believe that they have been heard, and that their views seem to be taken into account. In this context, we asked respondents how favourable the findings were to their organisation. It is noteworthy that 47 per cent strongly agreed or agreed that findings were favourable, and a further 24 per cent thought they were neutral or mixed. Only 3 per cent of respondents suggested outcomes

were 'very unfavourable'. Interestingly, when asked, only 7 per cent of organisations indicated they considered their participation in the particular inquiry we listed was a 'waste of time'; but only 3 per cent considered that inquiries in *general* were a waste of time.

Reflections on Hearings?

Parliamentary inquiries are not in any sense the *only* means of (publicly) debating and discussing policy options. The Scottish Government uses public consultations extensively, a continuation of the pattern under the pre-devolution Scottish Office (see Halpin and Baxter 2008, 2009). These are generally written – although by no means exclusively – and participation is very open. We were interested in the extent to which respondents thought their 'organisation learned more about a controversial issue through participating in the Parliamentary Committee inquiry than by making written responses to a governmental consultation document'. As it turned out, 54 per cent of respondents strongly agreed or agreed, with 29 per cent neutral. This assumes that these organisations *do* have experience with government consultations (and comparison of our respondents with other datasets on consultation respondents confirms this). This initial result is given further weight by the finding that 81 per cent of respondents also considered parliamentary inquiries a 'fairer procedure for analysing public policy issues than a departmental procedure'. While this pertains to the quality of the engagement, other work suggests that organised interests in Scotland tend to be more *active* in government consultations than in parliamentary inquiries (see Halpin and Baxter 2008).

Conclusions

This article has presented a different take on the functioning of Scottish Parliament committees from that which has dominated so far. Rather than being attentive to the legislative impact (or not) of committees – can they put into practice their 'powerful' remit – we suggest an equally valid approach might pursue whether committees have been successful in bringing diverse voices into the policy process and, even more broadly, whether the process of participating in hearings can be said to contribute to a transformation of the terms of policy debate. At the very least, we would argue that this broad approach to the Parliament – and committees – is something that warrants further attention.

By virtue of an audit of those who do participate in hearings, we are able to say that there *is* a core of participants who are heavily engaged in hearings (whether by way of written or oral evidence) and that the engagement covers a large number – but still a minority – of hearings. Beyond this core, we find a large number of policy specialists for whom written or oral evidence to hearings is a novel activity. Our past discussions, individually, with committee clerks, reveals that this finding is probably not a big surprise. The question this poses is whether this is viewed as a problem and, if so, what makes it so hard to get

beyond the 'usual suspects'? A better appreciation – from the inside – of how clerks engage in finding evidence givers would undoubtedly be useful.

The evidence on policy learning took us by surprise. We found that many organisations claim to have become better aware of the views of both governmental and non-governmental actors by virtue of participation in committee hearings. Moreover, some claim to have changed their views. What can we attribute this to? There is a temptation to suggest it is a result of the institutional design of the Scottish Parliament. In comparative terms, simply because of the long shadow cast by its capacity to initiate legislative action, we might expect the Scottish system to do better than Westminster committees. But we do not know until we look elsewhere – at work which is currently underway. This provides some room to view the work of committees more positively in the face of criticism that they have not made the most of bill initiation powers. If one accepts that this learning is valuable and ought to be better facilitated, the question arises: how can better use be made of inquiries?

Realists might say that a large minority of hearings are related to scrutiny of bills. And that the number of hearings is itself heavily constrained. Support for this view is found when one looks at the number of inquiries that are undertaken: during Sessions One and Two, a consistent figure of between 20 and 26 inquiries (mean 22) were conducted in each full parliamentary year. The realist perspective would hold that committee agendas are heavily resource contingent, and more resources would necessarily allow committees to expand their agendas.

Alternatively, it may be the case that regardless of the volume of legislation emanating from the executive branch, committees will use whatever time they have available to scrutinise a similar number of inquiries. Indeed, this point was argued by a member of the Procedures Committee (Susan Deacon MSP) in 2003 when looking at committee workload:

> The business of committees will always expand to fit the space available. It is arguable that it is like the law governing women's handbags: no matter what size the bag is, there is always 10 per cent more to put in it than will fit in the space available. (Procedures Committee, 2003: Col. 2173)

While completely unqualified to comment on women's handbags, the work of the committees during the Parliament's third session will provide an interesting comparative dimension. Given that the executive branch was led by a minority Scottish National Party administration from 2007 to 2011, a zero-sum view of parliamentary resources (particularly time) and power would hold that the legislative branch – including the committees – should have had, to a significant degree, more scope than was the case in Sessions One and Two. Once we have updated our dataset to include Session Three, we will test this hypothesis. If the work of Scottish Parliament committees continued to be dominated by legislative activity, and this limited what they can do by way of other activities, it may also be relevant to question whether the legislative and investigative functions of committees might be separated to allow more scope for inquiries. A potential

problem with this idea is that the capacity of MSPs to engage in legislative scrutiny and investigations would remain limited.

In a not unrelated point, it might be surmised that member's bills are in part poorly taken up because it is hard for individual MSPs to mobilise consensus in the same way as the government can through established consultation processes. This is no doubt true in part. However, when we examined just how much attention MSPs can gather for consultations they themselves run to aid their member's bills we found reasons for optimism. We could find consultation exercises on 18 of the 34 members' bills that were introduced to the Parliament. The lowest response was seven[12] and the highest was 515[13] (but the mean was 87). This compares with around 50–60 responses from organisations for Scottish government consultations (see Halpin and Baxter 2008). Returning to the question of committee inquiries, this evidence suggests that there is not a straightforward resourcing issue. Moreover, one reading of this evidence is that organised interests are looking for ways to mobilise consensus on new issue agendas. An optimist might conclude that any efforts by committees to strike out on new agendas are likely to be rewarded.

It is perhaps also worth stating that there are other means of participating in the work of the Parliament. The Parliament's Public Petitions Process is widely seen as an enormous improvement on the Westminster system (for example, Carman 2006) and the proliferation of Cross-Party Groups can be seen as an additional focal point for many individuals and civil society groups. While we recognise the importance of these organs, we also believe that there is a distinctive and prominent role for committees to play; one which merits consideration in its own right.

It should also be added that the importance of political parties to the working of the Scottish Parliament, including the committees, was largely ignored in the CSG report. It was hoped that the Scottish Parliament would be able to avoid what is seen as the type of party tribalism traditionally found in the House of Commons. However, writers like Arter (2004) have argued that, far from transcending party conflict, party opposition is very strong in the Scottish Parliament, which can be seen as largely imitating tradition in the House of Commons. Party differences clearly play a major part in politics at Holyrood and the reality of party politics, and the effort to gain party advantage, may constrain the type of activity in which parliamentary committees are able to engage, such as the nature and scope of inquiries.

If it is too premature to pass judgement on the translation of committee legislative powers into practice, then it is almost certainly too early to draw firm conclusions upon the 'learning' facilitated by committee hearings. An initial observation is that, like initiation of committee bills, the inquiry process is probably hampered by resource limitations and the burden of government bills. And, as Arter (2002) has suggested, things such as turnover in committee staff and members may reduce the potential for generating capacity. As such, Session

Three of the Parliament may be a better test, given that the conditions of minority government appeared to create a lighter legislative burden.

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Notes

1. Defined by the Consultative Steering Group as 'external groups and individuals in all sectors of Scottish society' (CSG 1998, 2.17).
2. This suggestion also seems consistent with the Scottish Constitutional Convention's final report, which talks of promoting equality of opportunity 'for women, people with disabilities, ethnic minority communities and other groups' (Scottish Constitutional Convention 1995, 10) and of a parliament 'which actively encourages the participation and involvement of all groups, including ethnic minority groups' (Scottish Constitutional Convention 1995, 17).
3. Available at: http://www.scottish.parliament.uk
4. See http://www.scottish.parliament.uk/business/bills/billsnotInProgress/index.htm for a full list of bills considered in Session One, and http://www.scottish.parliament.uk/business/bills/billsnotInProgress-s2/index.htm for those considered in Session Two.
5. Where petitions *have* been passed to other committees for further evidence-taking or legislation, this is captured in the consideration of the work of these committees individually.
6. Unlike its approach to bills (see above), the Scottish Parliament does not collate details of its inquiries in one place.
7. This viewpoint embraces a particularly cynical view of organised interests: there is a zero-sum relationship and any increase in group power consequently reduces state power. Others take a more benign view of organised interests and see them as enhancing governing capacity (see Bell and Hindmoor 2009 for a review).
8. This group is composed of residents lacking the right to vote in local/regional elections under the UK's *Representation of the People Act (2000)*. In short, it represents the community of immigrants/refugees with no formal and/or legal status in the electoral system.
9. For example, the 2005 Family Law (Scotland) Bill did not focus uniquely upon children and young people but contained provisions which had a specific impact upon them.

10. This survey was conducted as part of a broader project coordinated by Ian Marsh (University of Tasmania), and involving Phil Larkin (University of Canberra) and Edwin de Ronde (University of Auckland) which set out to compare and contrast committee inquiries across the Australian, New Zealand, UK and Scottish parliaments. It replicates some of the questions Marsh (1986) used in his earlier study of Select Committees at Westminster.

11. One reviewer suggested that it might have been better to conduct a survey in the middle of a parliamentary term. We have no way of knowing if timing has had any effect. We think it unlikely given the question asked for respondents to report on the *latest* inquiry in which they participated. In that way, we overcome any obvious problem with timing, as participants may have responded last week, or last year.

12. Provision of Rail Passenger Services (Scotland) Bill, introduced by Tommy Sheridan.

13. Education (School Meals etc) (Scotland) Bill, introduced by Frances Curran.

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