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Devolution, counter-conduct and territoriality: The case of Tax Business Rates in the United Kingdom

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ABSTRACT

Business Rates (BR) are key to the interaction between national, devolved, regional and local institutions of government in the UK. A liability to the tax can make the difference between the life and death of a business, and the design and implementation of business rates interacts with areas of policy concern as disparate as devolution, planning, charity regulation and digitalisation. We examine how BR affect political struggles between the devolved governments and the UK government using a governmentality approach focused on counter conduct, extending the scant literature on this type of taxation. Our theoretical contribution is to analyse how resistance, represented by the Foucauldian concept of counter conduct, manifests within the complex and understudied context of BR. In particular, we show that counter conduct has spatial and territorial elements which have the potential to destabilise the entire business rates programme and ought to be taken much more seriously.

1. Introduction

Fiscal decentralisation is the assignment of tax raising and expenditure powers to subnational levels of government by central government (Wynter & De Loo, 2023, p. 1). The literature has acknowledged that it may bring economic benefits, including a closer alignment between the provision of public goods and services, and the preferences of recipient agents, in addition to a greater accountability of local authorities/politicians, and policy innovations (Bahl, 1999; Bird, 1999; Oates, 1999); but also, this form of governance carries some costs, such as diseconomies of scale, greater complexity and costs for taxpayers, and other inefficiencies such as internal competition within jurisdictions and agency problems, and eventual under provision of public goods and services (Eiser, 2020; Rodríguez-Pose & Gill, 2005). Eiser (2020) contends that the balance between benefits and costs includes the nature and scope of the powers decentralised and the related institutional arrangements that support such decentralisation.

Fiscal devolution is a specific form of decentralisation in which there is a transfer of powers to an independent and elected sub-national level of government (Prud'homme, 1995), entailing some level of political independence (Eiser, 2020). The extent to which fiscal devolution produces an economic yield are dependent on, inter alia, institutional choices, political processes, and historical and cultural factors (Eiser, 2020, p. 6). In other words, fiscal devolution does not unfold exclusively within the economic realm. However, a significant body of literature approaches fiscal decentralisation from an economic perspective (Brennan & Buchanan, 1980; Oates,

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1999, 2005), which is unable to capture the power relations at play in its implementation (Wynter & De Loo, 2023, p. 12).

Those power relationships are normally misrecognised, subordinated or justified by rational and technical considerations (Boden, Killian, Mulligan, & Oats, 2010). Such power has manifested in overt political and bureaucratic resistance to implement fiscal decentralisation (Smoke, 2001), but also in mild discourses that put its implementation in a standstill position between abortion and adoption (Wynter & De Loo, 2023). As the implementation of fiscal decentralisation is context dependent, idiosyncratic institutional, political, organisational and social considerations shape the way this form of governance is carried out. Accordingly, we posit the following research question.

RQ1: *How does central government devolve tax powers to lower levels of government?*

Policies, including tax policies, may face different degrees of resistance from individuals, collectives or institutions affected. Critical tax literature has partly examined the resistance of: politicians/policy-makers in the adoption of tax policies that affect their interests (e.g., Ormeño-Pérez & Oats, 2024); taxpayers and tax officials after the adoption of the New Public Management (NPM) philosophy (e.g., Tuck, 2013; Wihantoro, Lowe, Cooper, & Manochin, 2015); and, tax officials to enforce laws that embed imperialism and domination (e.g., Wynter & Oats, 2018). Less examined is, however, the resistance offered at broader levels of the bureaucracy, politics and the tax field within different territories as consequence of fiscal devolution. To improve our understanding in that regard, we posit the following second research question:

RQ2: *What is the nature of resistance offered by agents within devolved nations?*

To examine this phenomenon on the ground, we conducted a single case study concerned with the devolution of tax powers to the United Kingdom member countries (Northern Ireland, Scotland, Wales and England) in the context of Business Rates (BR). BR is essentially a property tax charged on physical business, which plays a pivotal role in UK public finances at devolved nations. Although BR is conceptually amongst the simplest of taxes, it can be overwhelmingly complex in practice, especially once various types of devolution of the UK are taken into account. In this paper, we examine both, how devolution is carried out in practice and the response of the nations granted with greater tax autonomy. Especially, the BR case is illustrative of some forms of resistance by devolved nations when granted autonomy in the management of this tax.

This case is informed by qualitative sources, mostly interviews (12 semi-structured individual and 3 focus groups) with key informants in the devolved nations of the UK (England, Scotland, Wales and Northern Ireland). We consider these participants to belong to an elite group that command extensive expertise in the BR policy, the rating process and valuation. This empirical material was subsequently professionally transcribed and *thematically analysed* (Braun & Clarke, 2006; Gibbs, 2007) with the assistance of NVivo. Later, the findings were linked to three interrelated Foucauldian concepts of *Governmentality, Counter-conduct* (Foucault, 1978) and territory/space. This framing allows us to examine 'how certain things happened and the difference they made in relation to what has gone before' (Rose, O'Malley, & Valverde, 2006, p. 11, quoted by Boomsma & O'Dwyer, 2019, p. 2). Particularly, we inquire into how government and governmentality shape, manage and make visible a subject's, in this case nation's conduct, and their resistance to particular technologies and programmes (the fiscal devolution programme), or in Foucauldian terms 'counter-conduct' (Foucault, 1978) within different territories. These concepts, governmentality (some exceptions include, Edgley, 2010; Edgley & Holland, 2021; Tuck, 2013); counter conduct (some exceptions include, Ahrens, Ferry, & Khalifa, 2020; Boomsma & O'Dwyer, 2019; Tuck, 2013); and territoriality/space (some exceptions include, Ahrens & Ferry, 2021; Ferry, Midgley, Murphy & Sandford, 2023) have received limited attention in critical accounting and tax scholarship, but are rarely mobilised in tandem in the explanation of socio-political-institutional phenomena such as fiscal devolution. In this paper, instead, we articulate these three concepts to further understand the fiscal devolution phenomenon.

The expected contributions of this paper are threefold. Firstly, much of the literature on the taxation of land ownership and occupation is written from an explicitly normative standpoint and highly focused on federalism in early waves of literature (e.g., Musgrave, 1959; Tiebout, 1956), as property tax are an important source of revenue (Wynter & Oats, 2018). The literature that followed so-called 'second generation' fiscal federalism, draws on public choice theory and accepts that economic efficiency may have to be balanced with other factors such as the promotion of participation or individual rights (Brennan & Buchanan, 1980; Oates, 1999, 2005). This paper, instead, examines the political dimension of fiscal decentralisation within critical accounting research, supplementing prior research dominated by the economics approach (Wynter & De Loo, 2023). In this paper, we adopt a broader view of politics comprising all the actions of negotiation, resistance and conflict (Leftwich, 2004; see also Bell & Hindmoor, 2014; Ormeño-Pérez & Oats, 2024). Secondly, from a theoretical standpoint, this paper advances the understanding of the interplay between governmentality, counter-conduct and territoriality/space. Much of the literature on governmentality has tended to look into the government agency that shapes the conduct of agents at the expense of not inquiring into the political struggles over the execution of governmentality, including its pros and cons (O'Malley, Weir, & Shearing, 1997). Ahrens et al. (2020, p. 2) are critical about governmentality studies overlooking '*competing rationales and programmes*' captured in the notion of counter-conduct. In their view, this neglect in accounting scholarship is that researchers favour analyses of the role of accounting as a technology of government rather than the examination of the failures of such technologies (see also Jeacle & Carter, 2023). In this study, by responding to previous calls to examine different forms of governmentality and counter-conduct emerging in different contexts and spaces (Wickramasinghe, Cooper, & Alawattage, 2021) and also to 'extend forms of counter-conduct' (Boomsma & O'Dwyer, 2019), we examine the dual dimension of counter-conduct (wishes to be conducted differently and the ambition to receive significant autonomy) in certain territories/spaces. In this way, we aspire to advance prior research in accounting scholarship on governmentality and counter-conduct that has inquired mostly in the accounting technologies that are used in counter-conduct (e.g., Ahrens et al., 2020). We add to this theoretical understanding a second dimension to illustrate that counter-conduct may relate to territoriality/space. Particularly, we note that territories (devolved nations) counter-act central government's conduction of conduct differently during the devolution programme. This integration allows us to '*bring to light power relations, locate their position, find out their point of application and the methods used*' (Foucault, 1994, p. 329) remarking on the political dimension of counter-conduct (Davidson, 2011). Thirdly, it examines a tax, which besides occasional proposals of repeal and replacement for other forms of property tax, has received very little academic attention in comparison to other taxes (Cooper, Danson, Whittam, & Sheridan, 2010; de Cogan & Tuck, 2022, pp. 38–54; Greenhalgh, Muldoon-Smith, & Angus, 2016; Jackman, 1987; Kapitsinis, 2019; Peck et al., 2014; Sandford & Mor, 2019; Zimmerman, 1987) despite its peculiar malleability and important contribution to public finances (Ferry, Midgley, Murphie, & Sandford, 2023). In this paper, we examine in the ground the views of UK central government and devolved nations regarding the management of this tax, illustrating the wider phenomenon of tax devolution.

The paper takes the following structure. In section 2, we present a description of the Foucauldian framework with an emphasis on governmentality, counter-conduct and territoriality/space, which drives the analysis of the paper. This is followed by the methodology section, which contains a description of the operation of Business Rates in the UK and a description of the research methods applied. In section 4, we present the empirical findings informed by the theoretical framing, which is followed by the final concluding discussion section.

2. Theoretical framework: governmentality, counter-conduct and territoriality/space

To further examine the power relationships and resistance in the devolution of Tax Business Rates in the UK, we resort to the Foucauldian concepts of governmentality, counter-conduct and territoriality/space. Governance, through the lens of the Foucauldian concept of governmentality (Foucault, 1978), analyses how a population is shaped into a self-governing entity and examines governing at a distance (Miller & Rose, 1990). More specifically, governmentality is the '*ensemble formed by the institutions, procedures, analyses and reflections, the calculations and tactics that allow the exercise of this very specific albeit complex form of power*' (Foucault, 1979, p. 20). This means that power does not lie in institutions or authorities, but it operates through shaping agents' '*ways of seeing, knowing and acting*' (Anthias & Hoffman, 2021, p. X). In advanced liberal democracies (Miller & Rose, 2008, p. 24), techniques of government do not merely shift the responsibilities and capacity for governing from central government to local government, but do so in a way in which technologies of government and expertise seek to influence and impact the conduct of the governed (Ferry, Funnel, & Oldroyd, 2023). This governmentality approach is to take the object of their techniques and practices the *conduct* of human beings (Davidson, 2011).

Foucault explains that conduct has two dimensions:

> Conduct is the activity of conducting (conduire) of conduction (la conduction) if you like, but it is equally the way in which conducts oneself (se conduit), lets oneself be conducted (se laisse conduire), is conducted (est conduit) and finally, in which one behaves (se comporter) as an effect of the form of conduct (une conduite) as the action of conducting or of conduction (conduction) (Foucault, 1978, p. 193).

This encompasses the way in which the subject is both conducted or shaped, but also the way in which, as the object of the shaping, the subject behaves when shaped. For instance, when taxpayers are shaped into visible customers, they then behave as customers (Tuck, 2013). To understand governmentality, it is essential to analyse the mechanisms of governing, which are captured in the concept of *Technologies of Government* (ToG) (Miller & Rose, 2008). Miller (1990, p. 317) contends that ToG comprises various forms of '*calculations, procedures and mechanisms of government*'. ToG comprise a series of accounting practices of naming and counting, such as the use of accounting concepts (e.g., revenue and expenditure) and calculations (e.g. working out income and expenses) (Closs-Davies, Merkl-Davies, & Bartels, 2021, p. 536). Accounting Technologies of Government (ATG) have effects on agents by transforming them into individuals responsible of themselves (Closs-Davies et al., 2021; Foucault, 2008; Mennicken & Miller, 2014).

As demonstrated in other studies, subjects may not be the passive recipients of governmentality. These ideas are captured in the later work of Foucault of counter-conduct, which cannot be divorced from a consideration of governmentality. In fact, Foucault (2007, p. 196) establishes a '*correlation between conduct and counter/conduct*', which are absent in the analysis of governmentality (see also Jeacle & Carter, 2023). Foucault (2007, p. 75) defines counter-conduct as '*the will not to be governed thusly, like that, by these people, at this price*'. This concept represents a form of opposition '*in the sense of struggle against the processes implemented for conducting others*' (Foucault, 1978, 2007, p. 201), a form of '*dissidence*', a subdued form of resistance (Foucault, 1978, p. 203). Counter-conduct is the diffused form of power underpinning governmentality (Demetriou, 2016; Foucault, 2007). O'Malley's (1996) work draws upon this view, '*[counter-conduct] may shape rule, [it may] never be engaged in rule; its challenge to rule may never be fatal*' (Boomsma & O'Dwyer, 2019, p.16 quoting O'Malley, 1996, p. 323). This implies that the government '*is not directly challenged but rather alternative ways of conduct are taken*' (Jeacle & Carter, 2023, p. 5). Counter-conduct has a dual meaning. On the one hand, it involves movements characterised by wanting to be conducted differently, whose objective is a different type of conduction; and, on the other hand, they also attempt to indicate an area in which each agent can conduct himself, the domain of one's own conduct or behaviour (Davidson, 2011, p. 27). Thus the subject 'resists or revolts' against being conducted, but in addition the subject defines a territory/space where they can operate in their way. This shows the positive and constructive nature of counter-conduct (e,g, Lauwo, Egbon, Denedo, & Ejiogu, 2023), in the sense that is not mere resistance, instead of the agent conducting herself in an alternative way to the one dictated (Jeacle & Carter, 2023). Important is the fact that counter-conduct is applicable to individual behaviour and strongly organised groups (Foucault, 2007). Semantically, counter-conduct comprises the '*insubordination of freedom*', the '*rebelliousness of the will and the* *intransitivity of freedom*', the '*art of voluntary inservitude'* and of '*deliberative indocility'* (Foucault, 1990, p. 39; 2001, p. 1056; cited in Davidson, 2011, p. 30). For Foucault, counter conduct interferes *'with the locally stabilized organizations of power, and thereby affect, in a new way, the possibilities of action of others'* (Davidson, 2011, p. 29). Recently, counter-conduct has informed prior social and environmental accounting (e.g., Lauwo et al., 2023; Vinnari & Laine, 2017).

Importantly, the examination of governmentality (and hence counter-conduct) is largely context and history dependent (Mbembe, 2003; Hannah, 2000). Relatedly, governmentality has a relationship with territory/space, which has been broadly acknowledged in accounting research (Mennicken & Miller, 2012). Unfortunately, Foucault's writing (2007) tends to obscure or merge aspects of territory with population (Anthias & Hoffman, 2021), leaving the interrelationship between governmentality and space understudied (Elden, 2007; Huxley, 2008). Other researchers have extended Foucault's writings to deepen in the role of territory, or space, in the execution of governmentality. Rose (2010, p. 31), for example, contends that governmentality '*is also a matter of space, of the making up of governable spaces; populations, nations, societies, economies, classes, families, schools, factories, individuals*' (Rose, 2010, p. 31; cited in Ferry, Midgley, et al., 2023, p. 775). Rose (2010, p. 31) continues with the idea that governable spaces are way to make government possible, with such spaces with '*specifiable limits and particular characteristics*' (Ferry, Midgley, et al., 2023). The rationale that these spaces have physical and specific limits is amenable to the planning literature, within which most of the notions of territoriality and counter-conduct have developed (e.g., Bulley, 2016; Huxley, 2017). In town planning, Huxley (2006, p. 784) shows that the way towns were set out is an example of '*spatial rationalities [which] make domains and environments amenable to government in a different way*'. These spaces may take different forms and sizes, including bedrooms, kitchens, libraries, schoolrooms, factories, department stores, militaries, neighbourhoods, zones, communes, districts, cities, regions and nations, but also smaller spaces such as factories, hospitals, museums, through which *'government'* is *'territorialized'* (Rose, 1996, 1999, p. 32; 2010; see also Anthias & Hoffmann, 2021; Huxley, 2008 for the identification of other settings). Regardless of their physical extension, spaces meet the requirements of being *'single, recognizable, limited and knowable*' (Carmel & Harlock, 2008, p. 157). Overall, these spaces, be they the 'national economy' or not, are recipients of political programmes (Rose, 2010), in our case, the fiscal devolution programme.

In accounting scholarship, very few academics have attempted to mobilise these concepts in tandem. Some efforts towards filling this gap are found in the work of Ahrens and Ferry (2021) in which the accounting and accountability UK government's responses in the amidst of COVID-19 are examined. Drawing upon the Foucauldian concept of *apparatuses of security*, these scholars explore the circulation of people, goods, and services as critical in the functioning of a *space*. Specifically, these scholars inquire into the health response to protect the population by restricting the freedom of movement, social distancing, and other security measures to protect the population within the UK national space as a democratic context. In addition to governing the space, the authors find the form of governmentality crystallised in laws passed and enforced towards the protection of health faced emotional resistance on the part of powerful agents such as politicians, judges and police chiefs due to the perception of acting non-democratically. In this context, accounting appeared as a powerful tool for the identification and measurement of risks associated with the circulation of individuals. Another exemplar, with a focus on the governance of space, is found in Ferry, Midgley, Murphie, and Sandford's (2023) paper in which they examine the accountability of local authorities in England and how it resulted not entirely successful resorting to the concept of, amongst others, territorialization. The identification of a territory, rather than an organisation, has the potential to increase the accountability of the collection and use of resources as these authors note. More comprehensively, Ahrens et al. (2020) mobilise the notions of governmentality, counter-conduct and space in the examination of austerity measures in a local government in England. In doing so, the authors made visible the physical space using heat maps and budgets (accounting tools) in areas that experienced budget cuts and austerity measures which enabled resistance (the first dimension of counter conduct) against austerity programmes.

The argument we put forward in this paper is that the way in which BR are being manipulated by sub-national authorities, such as the devolved governments and taxpayers in different countries (hence, different political arrangements), present an illuminating example of two dimensions of counter-conduct whereby the spatial perspective extends prior studies (e.g., Ahrens et al., 2020). Space, as conceived by Foucault (1980), is '*fundamental in any exercise of power*' (Huxley, 2008, p. 1644), and in our case, the territorialization of responsibilities and powers allows counter-conduct to manifest in two dimensions: as the desire to be conducted differently (first dimension of counter-conduct) and the desired to gain greater autonomy to conduct our own affairs (second dimension of counter-conduct). As we will illustrate below, the space constitutes an element of power that it could be used to local authorities to revert the power exercised centrally, by, for example, threat to relocate in other territories (countries or areas) where the BR operates more favourably for companies wherever the territorial boundaries are blurred. Eventually, these spatial rationalities interfere with the existing structure creating instability of the governing programme, unlike prior work that shows the creative and transformative nature of counter-conduct (e.g., Boomsma & O'Dwyer, 2019). Whilst similar observations might be made about aspects of any system of tax devolution or fiscal federalism, BR are particularly significant as the central example of a devolved UK tax that is being used not just for the collection of taxes, but for other non-tax objectives including the decentralisation of fiscal policy and the encouragement of economic regeneration.[1] To sum up, we bring to the fore the interplay between the triad of governmentality, counter-conduct and territoriality. The next section of the paper outlines our methodology.

[1] This could be similar to environmental-relevant taxes including aggregates levy, landfill tax and air departure tax.

3. Methodology

3.1. Case study: the fiscal devolution of business rates in the United Kingdom

To answer the research questions, we conducted an empirical single case qualitative study concerned with the devolution of Tax Business Rates in the UK. Business Rates (BR) was selected because is perhaps the tax most completely devolved to Scotland, Northern Ireland and Wales (albeit in the latter case only since 2015) and is surrounded by a complex system of governance. In addition to raising revenue,[2] BR-a form of property tax charged on non-domestic properties including shops, offices, factories and warehouses, pubs and guest houses-influence land use (e.g., agricultural use, charitable shops). In that regard, BR serve an important function in collecting revenues for the central government, which are later redistributed to local government for its functioning (leaving aside Northern Ireland). Over time, though, there has been a move from centrally funding the spending needs of a local authority to a system that rewards local fund raising and provides financial incentives to address needs.[3] There has been restriction of central government to raise additional revenue from property tax on domestic properties, which has produced a funding gap estimated to be £7.8 billion by 2025 (Local Government Association, 2018, p. 7), which is going to be funding by local business via BR and other charges. The funding of local governments is a concern which has raised ideas for an outright replacement of BR (and sometimes other local and even national taxes) with a newly designed Land Value Tax (LVT), which mitigates some of the unwelcome incentives of BR, for instance to leave 'brownfield' sites undeveloped or otherwise to use land inefficiently (Institute of Fiscal Studies, 2011, p. 376).

Despite these ideas, BR are still in operation and seem more difficult to reform than currently appreciated. In simple terms, this tax is calculated as follows:

(Rateable Value x Multiplier) - Reliefs = Tax. (This is tax is either retained locally or pooled)

The Rateable Value is the annual rental that the property could rent for from year to year on the open market at a fixed valuation date (Tretton, 2007) irrespective of what type of asset it is, such as a telecommunication mast or a shop, using standard valuation methods such as rental comparative approach; receipts and expenditure method, and the Contractor's approach (cost plus). The valuations are calculated at a fixed valuation date normally two years before the 'List' date or 'Role' date. This date is different in each of the devolved nations and the period between list dates is not consistent and can be extended by the respective devolved governments.

BR has been traditionally a very stable tax in the UK. The table below shows this stability regarding the tax collected and collection rates for the last few years for England.

Financial year	BR collection in England £million	Collection rates
2014–2015	22,868	98.1%
2015–2016	23,177	98.2%
2016–2017	23,914	98.2%
2017–2018	24,473	98.4%
2018–2019	25,323	98.3%
2019–2020	25,566	98.0%

Source: Ministry of Housing, Communities & Local Government, 2021.

This tax operates quite differently across the four jurisdictions (England, Scotland, Northern Ireland and Wales), though in each case (with the exception of England) a standardised deduction for BR revenues is made from the Barnett Formula that allocates funding between the UK government and devolved governments. The Barnett Formula calculates the amount of annual block grants from the UK Treasury to the Scottish, Northern Ireland and Welsh governments to fund public services, such as health care and education. Obviously, a great deal rests on the precise calculation of this deduction, but the basic idea is to transfer the risk of fluctuating revenues onto the devolved institutions as well as allowing those institutions almost total control over the design of the tax.

3.2. Data collection

We inform the BR case study through focus groups and individual qualitative semi-structured interviews held with representatives of all of the nations of the UK, namely Northern Ireland, Scotland, Wales and England (See Table 1 for a complete list and details of our participants). We consider them to belong to an elite of policy-makers and professionals, who command specialist knowledge, there are few specialists from a policy and valuation perspective, and the close links among them (see Table 2).

We have been involved in the fiscal devolution project concerned with BR over a long period of time. Our exploration into BR commenced when we were asked to take part in an Innovation Laboratory at the Northern Irish Executive back in June 2015; which became the first focus group for the purposes of this article. This followed the announcement by the Northern Irish Minister of Finance

[2] For example, in England, it raises £30.9 billion in 2019–2020 with a collection rate of 98.0% (Ministry of HousingCommunities & Local Government, 2021). At the central government level (UK government), concerns have been raised as to how the UK government would replace this revenue stream or reduce expenditure equal to the revenue forgone (HM Treasury, 2021).

[3] For example, by 2010, 80% of local government expenditure was financed by central government grant. This reduced to 31% by 2018–19 (Institute for Government, 2020). The central approach was itself a reaction to the pre-1980s localised system (Loughlin, 1996).

Table 1
Focus groups and Interview roles.

Code- Focus groups	Date	Details
1-FG	June 2015	Focus group NI
2-FG	September 2015	Focus group Wales
3-FG	July 2016	Focus Group HM Treasury
Code-Interviews		
4-policy	Nov 2015	Devolved government official
5-policy	Nov 2015	Regional English Authority
6-policy	April 2016	Major Metropolitan Authority
7-policy	April 2016	Devolved government official
8-val and appeals	Jan 2020	Official in government agency
9-val and appeals	February 2020	Official in government agency
10-policy	February 2020	Policy official in a devolved government
11- regional government	March 2020	Valuation, policy and collection officials in a devolved government
12-policy	March 2020	Policy official in a devolved government
13-appeals	March 2020	Appeals official in a devolved government
14-val	March 2020	Valuation official in a devolved government
15-comms	March 2020	Communications official in government agency

Table 2
Governmentality and counter-conduct in devolution of BR in the UK.

Conduct	**Conduct- Accounting Technologies of Government (ATG)**
Subject is both conducted and shaped	'the way in which as the object of the shaping, the subject behaves when shaped'
Devolving taxes	Multiplier
	Relief schemes
Counter conduct	**Counter conduct**
'wanting to be conducted differently'	'to indicate an area in which each individual can conduct himself, the domain of one's own conduct and behaviour'.
Appeals (by taxpayers)	Rates retention
Economic implications (by devolved governments)	

Adapted from Davidson (2011) and Foucault (1978).

of a fundamental review[4] of BR that would go beyond the administrative review in England (Department of Finance Northern Ireland, 2015) and look at alternative possible sources of revenue. Then, we held the second focus group, in which participated senior policy-makers from the Welsh Government, in September 2015. Present were nine senior representatives from the Welsh Civil Service including informants from Treasury, policy experts from the Welsh Departments of Economy & Local Government and from local government finance and taxation policy. This focus group examined the implications of BR for Wales, especially as the tax had only been fully devolved from April 2015. The discussion was wide ranging, lasted 90 min and covered areas such as appeals, discretions and alternative ways of taxing business properties. The third focus group was held in July 2016 at HM Treasury and consisted of a number of senior policy officials from HM Treasury and the Department of Communities & Local Government. We reinforced our understanding as well as feeding into the policy making process. We see this instance as an opportune time as the consultation on *Self-sufficient local government: 100% business rates retention* was being undertaken (Department of Communities and Local Government, 2016). This consultation followed the UK Government review of BR rates in Spring 2015, the results of which were published in March 2016 (HM Treasury, 2016).

These focus groups were followed by the conduction of four semi-structured interviews in 2015 and 2016 with senior policy-makers from the Scottish Government, a major metropolitan English authority, and a regional English authority to see how the impact of changes to rates would affect them. The formulation of interview questions was largely informed by the content of the documents analysed along with the information obtained in the focus groups. During these interviews, we explored with the Scottish government representative the specific mechanics of the Scottish system, the changes that had occurred in Scotland, the impact of these changes on government, local authorities and the business community, and also the appeal system. During the English interviews, we explored the history of BR and our interviewees' perspective on whether the proposed reforms to rates in England were expected to have a similar effect to those in Northern Ireland, Scotland and Wales. Overall, these focus groups and interviews examined BR at a macro level and assisted our understanding of a complex system of taxation.

Due to the sensitive nature of BR at that time, we were unable to record both the focus groups and the preliminary interviews. However, two of us, out of the three authors, were present at all the focus groups and most of the interviews, where we took detailed notes independently and shared our thoughts and notes immediately after each data collection round which were added to our fieldwork notes.

[4] The review was not published due to the collapse of the Northern Ireland Government in 2017.

In addition to the barriers and complexities of securing interviews with elites uneventfully, as highlighted elsewhere (e.g., Harvey, 2010), we felt that the data gathered by 2016 did not reveal with sufficient depth the political nature of the fiscal devolution programme and the resistance displayed by ratepayers and/or local authorities. To achieve such depth in the light of constant theoretical framework refining, we embarked on an additional round of interviews in early months of 2020. Much of the careful iterative analysis guided the formulation of interview questions for this final stage of data collection (Miles & Huberman, 1994) Thus, we secured further eight interviews with 10 interviewees between February and March 2020 with representatives from each of the devolved nations: Wales, Scotland, Northern Ireland and England. Unlike the previous data collection rounds, we were able to record nine of these interviews, which were subsequently professionally transcribed for formal rounds of analysis. The interviewees consisted of senior policy-makers, informants and valuers. These interviews examined the valuation and appeals procedures and the policy issues concerning BR in the devolved governments. We addressed specifically these areas as we wanted to see how the policy and practices had evolved in the devolved nations over recent years, and the apparent resistance (counter-conduct) in some of these instances. At this point, we felt that we had gathered sufficient data to gain an in-depth understanding of the devolution programme along with the apparent resistance of agents.

Although, we acknowledge that attendance to meetings and other review of local authorities' documents would have added a significant volume of additional data; we feel that our approach in conjunction with the spread time frame in which we conducted the interviews, allowed us to examine governmentality and counter-conduct in action from policy-makers perspectives who were critical in the decision-making process.

3.3. Data analysis

We analysed the fieldnotes and transcribed interviews using thematic analysis (Braun & Clarke, 2006; Gioia, Corley, & Hamilton, 2013; Saldaña, 2013). This process was structured in the sense that we analysed the data as soon as it was collected (particularly fieldnotes) as noted above. This allowed us to immerse ourselves into the data towards refining our material to be obtained in subsequent interviews. In this on-the-go round of analysis, we identified a number of areas, such as the practices of valuation, appeals, reliefs and retention of rates that we felt required more micro-level analysis. As soon as we got all the recorded interviews transcribed, we formally conducted several rounds of thematic analysis on the totality of our data corpus. These rounds allowed us the construction of codes, such as the technical elements of the tax and its operational procedures. This task was performed by the first author and the codes were later discussed with the other two authors to agree on the direction of the paper. We used NVivo to help us to do a granular analysis of the material (Merriam & Tisdell, 2015). In the coding process, we took a free approach without imposing any particular Foucauldian concept onto the material, instead, the links emerged at very advanced stages of our analysis. We established formal connections between technical aspects such as multiplier, valuation and reliefs with governmentality, and between aspects of appeals and economic regeneration with counter-conduct, for example, and their links with territory/space. After that, we selected the quotes we assess as the most representative to answer our two research questions. In the section that follows, we present a summary of our key findings informed by Foucauldian theorisation.

4. Findings

The findings are organised around the dual aspects of conduct and counter-conduct intertwined with the notions of space/territoriality. This framing helps to make visible the salient points in the analysis of BR.

a. Governmentality in the devolution of BR powers

BR constitutes a significant tax raising programme. It raises a sizeable amount of revenue for public finances with high collection rates. The key intrinsic aspect of BR is that they are a property tax and, whilst it is difficult to avoid as property by its nature is immoveable, it has disadvantages in common with other property taxes in a digitised world. At the same time, BR is one of the most thoroughly devolved of all UK taxes. In the view of Loughlin (1996, p. 258), recent devolution programmes represent a slight relaxation of the extreme centralisation of the early 1990s. This is precisely the way governmentality is put in operation, central government controls and shapes the UK nations' behaviour by the conferral of more autonomy in fiscal affairs as described above. The rationale behind the devolution programme was economic growth (Ahrens et al., 2020). In the UK, the term for of exercising government through devolution is used for the transfer of powers to the Northern Irish, Scottish and Welsh devolved institutions and for a parallel, but weaker process of increasing the powers of English local authorities, the Greater London Authority, enterprise zones, business improvement districts and other sub-national bodies. There is a broad division whereby policy decisions on how and whether to redistribute rates liabilities and revenues are taken by devolved institutions, whereas more administrative tasks are exercised by local authorities, but this position is increasingly fluid. Interestingly, the structure and content of devolution is not standardised even for authorities at the same tier; for example, Scottish and Welsh devolution have followed very different trajectories. This implies that government is exercised to different degrees in devolved nations and the different historical aspects of the nations from legal and operational matters. Eiser (2020) comments that an important characteristic of the devolution is asymmetry in which '*the responsibilities of the devolved legislatures in Scotland, Wales and Northern Ireland are somewhat different from one another, and there has no comparable devolution for England or the English regions*' (p. 6).

The central element in the governmentality of devolution is the distribution of revenues and, in particular, the extent to which lower tiers of government bear the risks and rewards of their own policies. If all revenues are pooled centrally, with sub-national bodies funded pursuant to a separate mechanism, then the key instrument of finance-raising for those bodies is not really BR but this funding mechanism (OECD and KIPF, 2016). This was close to the position in Great Britain after the replacement of the old system of locally varying rates by 'national non-domestic rates' in 1990, but this has changed dramatically in recent years. In NI, Scotland (since 1998) and Wales (since 2015) BR are excluded from the Barnett formula, which means that the allocation of funding under the formula is reduced to reflect the amount that might be expected to be raised through BR. If rates revenue exceeds this figure, the excess is retained within the devolved nation; conversely, if revenue falls short, central government will not step in to subsidise the difference. Table 2 summarises the key aspect of governmentality drawing upon Foucault's conception of governmentality and counter-conduct.

b. Accounting Technologies of Government in the devolution process

As noted above, the calculation of BR could be easily expressed as:

Business Rate= (Rateable Value x Multiplier) - Reliefs

In the exercise of governmentality by the UK central government, two Accounting Technologies of Government (ATG) are relevant for the purposes of this paper, the definition of the rate of the multiplier and the reliefs available. These two ATGs varied across devolved nations.

4.1. *Multiplier*

The multiplier is broadly similar between England and each of the devolved nations, albeit it is sometimes expressed differently. Setting taxes is largely idiosyncratic wherein general principles are transmuted to reflect the needs of the territory (Eden, Dacin, & Wan, 2001; Ormeño-Pérez & Oats, 2024), so in that sense it is expected some level of variation as noted in this empirical context. The multiplier is used to calculate the tax due before any reliefs available. In 2020/21 the standard multiplier of 51.2p in England is reduced to 49.9p for small businesses, defined as those occupying property with an annual value between £15,000 and £51,000 (subject to anti-fragmentation rules). This means that the tax in England is 51.2% of the rateable value. The Scottish system is similar, but is expressed the other way around, with the standard multiplier set at 49.0p and a supplement of between 1.3p and 2.6p on for businesses occupying property with an annual value exceeding £51,001- £95,000, and over £95,000 respectively giving multiplier rates of 50.3p and 51.6p. The Welsh multiplier of 53.5p, and the locally varying district rates in NI that are added to the regional rate of 33.41p, apply equally to small and large businesses. The political decision to set the multiplier is different in the devolved nations. For example, in Scotland the decision to set the multiplier is not regulated by statute in the same way as it is in England.

> So in England there's a stability and confidence that it will increase by CPI outside revaluation. In Scotland we don't have that commitment. There's an understanding in a way but it's only a gentleman's agreement, there's no legal requirement. There's no legal prescription on how the rate is to be set so it is whatever ministers decide (12-policy).

This suggests that government is exercised with some level of flexibility regarding the ATG multiplier, which may be accommodated to policy and political decisions of policy-makers in office. As noted in tax policy-making literature (e.g., Dagan, 2013; Ganghof, 2006; Ormeño-Pérez & Oats, 2024), policy definitions respond to some trade-offs, in this case concerning legality and efficiency. Importantly, the uniform definition of the multiplier for within some territories raises issues of the effectiveness of the multiplier. In England, for instance, the existence of a uniform multiplier tends to skew revenue-raising to areas with sharp increases in property prices, such as London and the South East and increases the financial dependence of the rest of England upon London (6-policy). This illustrates on the relationship between governmentality, ATG and territoriality.

4.2. *Relief schemes*

The second ATG relates the existence of relief schemes, i.e., *deductions* to the determined BR, applicable at the national and local levels. The devolved governments decide the national reliefs, whilst the particular Local Authority (LA) decides the local reliefs at least nominally. These wide discretionary reliefs are relatively recent at local level (Localism Act, 2011). The burden of these reliefs depends on the particular devolved government. For instance, in England national mandatory reliefs are borne by central government which amount to £4.43 billion in 2020/2021 (Ministry of Housing, Communities & Local Government, 2021, p. 17) whilst the burden of local reliefs is usually shared between the local authority and central government (3.1 HM Treasury, 2020a).[5] This is another example of territory. The reliefs are in addition to property exempted from BR, such as agricultural land and buildings, building used for training disabled people, and places of public religious worship. In other words, the definition of this ATG is dependent to the technical function met by ATGs of categorisation/classification (Closs-Davies et al., 2021).

There are common reliefs amongst the four nations, but with different criteria in the devolved nations for small businesses, charities and empty properties (i.e., categorisation). However, each of the four nations have their own specific reliefs. This shows the extent to which devolved nations exercise their power by the definition of their own reliefs, performing accounting functions of categorisation/classification. For instance, Scotland gives reliefs for renewable energy generation and day nurseries whist Wales gives reliefs for post

[5] The total amount of reliefs for England in 2019–2020 amounted to £5 billion.

offices of a certain size and NI for residential homes. England has different arrangements again.[6] Overall, reliefs constitute revenue foregone for devolved nations, which, in the case of England Charitable Rate Relief amounted to £2.04 billion in 2020–2021 (Ministry of Housing, Communities & Local Government, 2021).

In addition to this technical function, the relief also performs a transformative function of the social fields touched upon this government technology (Miller, 1990). This is visible in that reliefs are intended to "support certain businesses, promote growth and investment, or simplify the rates system" (HM Treasury, 2020a: 9). Although low threshold reliefs save administration time and compliance effort, it is questionable whether other reliefs simplify any system. Small businesses are certainly supported by reliefs. In England, Small Business Rate Relief offers 100% relief to businesses occupying premises with an annual value of £12,000 or less, with tapering relief up to £15,000. This combines with the small business multiplier to provide a sliding scale of relief for annual values between £1 and £51,000. The total cost of this relief in England for 2020–2021 was calculated at £1.38 billion (Ministry of Housing, Communities & Local Government, 2021, p. 17). The Scottish Small Business Bonus Scheme is notably more generous and was described by an interviewee as a 'flagship policy' of the Scottish National Party; the Welsh and Northern Irish reliefs are respectively slightly and very much less generous than England. Our interviewees in Wales and NI commented that this was due to the lower rateable values of properties in these nations (10-policy; 11-regional government). The disparity of reliefs available across the UK illustrates that governmentality is broadly dependent on the geographical context in which is exercised (e.g., Hannah, 2000; Huxley, 2006).

We were reassured by one forum participant that '*discretions [reliefs for LAs provided by the Localism Act] are used in a disciplined way*' (3-FG), although another interviewee commented, in a different context, that 'businesses don't like local discretion', this is, in other words, that businesses like stability and consistent approaches (5-policy). The same forum participant (3-FG), conversely, mentioned that some businesses attempted to exploit their position by threatening to leave the particular area unless discretion was exercised in their favour. This is an example of spatial counter conduct being exercised which is discussed further in the next section.

The effectiveness of this accounting technology of government is dubious. There are a number of criticisms surrounding them: they are complex with different reliefs in different local authority areas and individual properties can be eligible for more than one relief (problem of categorisation); local reliefs could create economic distortions; additional reliefs can have the effect of narrowing the BR rate base so that fewer properties pay BR, and there are opportunities to abuse reliefs such as the empty property relief (HM Treasury, 2020). As one of our interviewees mentioned:

> The more you distort the tax, the more you incentivise different behaviours. So in theory, everybody should pay, but in practice, what have we done? We've created lots of reliefs and exemptions, so some people aren't and some people are. What does that do? It distorts the market (9-val and appeals).

In summary, discretionary reliefs given by local authorities and devolved nations can be targeted to support local businesses at their discretion who they should support or not support to transform the social field based on calculations and comparisons about their performance (Robson, 1992). However, as reliefs are devolved to the devolved governments the different tax base in those countries can impact the quantum of reliefs given.

> The issue Wales has, I suppose, is that they've got a relatively low rateable value base. They haven't got the London effect, so they're not necessarily able to implement the reliefs in the same way as England are – they can't afford it. So you'll see a less generous relief system in Wales but you'll also see lower underlying values as well (9-val and appeals).

This illustrates one of the difficulties with BR being a devolved tax. Reliefs available in England may distort the revenue raised as the nature of a property tax means that it is relatively easy to move from Wales to England due to the porous border. This pressure from the possibility of moving areas exerts a corresponding pressure on the multiplier so that the rates of multiplier are broadly consistent between the nations where there is a close border, bringing to the fore that the possibilities by which governments can shape conduct are shaped and delimited by the nature of geographical territories.

c. Counter-conduct in the devolution of Business Rates

In this subsection, we analyse the response to the government's shaping other agents' conduct mobilising the concept of counter-conduct in order to respond the second research question. The analysis reveals that counter-conduct (appears at two levels: firstly, within the ratepaying population who challenge some technical elements of BR; and secondly, at organisational/national levels). We expand on both below.

4.3. Counter-conduct at ratepayers level

At this level, we show how accounting technologies of government are used by citizens to challenge the functioning of the devolution programme. This is done through appeals and economic regeneration.

[6] https://www.gov.uk/apply-for-business-rate-relief/rural-rate-relief.

4.4. Appeals

As mentioned above, BR is calculated by multiplying the rateable value by the multiplier less any reliefs. Resistance is more likely to be seen in challenges to the valuation rather than the multiplier. This is to say, there are interactions between revaluation and the calculation of the multiplier despite the understandable efforts of some officials to portray the valuation calculation as strictly technical (interviewee). Portraying the valuation in such a way confers an aura of objectivity and, hence, legitimacy to the way it is calculated and leaving no other alternatives available to govern, closing spaces for counter-conduct to manifest. In England, the multiplier increases by CPI each year. The multiplier has increased substantially in recent years.in 1990/91 it was a flat rate of 34.8p. The higher multiplier was 42.2p in 2005/06 and 51.2p in 2020/21. This trajectory is very different when compared with rates of Corporation Tax which have had a downward trend. Comparable Corporation tax rates were 1990/91, 34%; 2005/06, 30%; 2020/2021, 19%. The Treasury Committee noted in 2019 that '*The Government needs to explain whether it is deliberate policy to allow the revenue generated by business rates to increase above the rate of inflation and to become an increasingly significant proportion of the total taxes borne by businesses*' (HC 222 House of Commons Treasury Committee:3). This Treasury intervention suggests that the devolution programme is not '*written by one hand, rather than multivocal, internally contested*' (O'Malley et al., 1997, p. 513; Boomsma & O'Dwyer, 2019). This is in line with the view that might be counter-rationales within the devolution programme about its best direction (Miller, 1990).

> Over time, corporation tax has gone one way, business rate multiplier has gone the other way, so obviously it's well worth challenging even for small reductions (9- val and appeals).

So resistance to the effect of the high multiplier seems to have manifested in a rise in appeals against the valuation of the property as opposed to a resistance against the rate of the multiplier asking to be conducted differently, with a lower valuation.

The availability of appeals against valuation appears, at first sight, to be little more than a technical mechanism to ensure that the correct values are ascertained. However, as we argue below, appeals provide a more general opportunity for ratepayers to resist the valuation process and hence serve as an important example of counter-conduct. The appeal system against the valuation also differs in each of the devolved nations. This shows that the one that governs does not only aims to conduct, but also that puts in place institutional mechanisms for counter-conduct to emerge. We note here then, that counter-conduct requires a suitable institutional arrangement (that includes the bureaucracy) as well as the procedure itself about how appeals are to be made. As remarked elsewhere (Death, 2010; Pieck, 2015), counter-conduct co-constitutes and challenges governmentality at the same time. In this respect, counter-conduct is limited by the law in the sense of what must to be done by the ratepayer and the valuator to solve the discrepancy. There is a "juridification" of counter conduct, subordinating it to the law (Davidson, 2011; Foucault, 1984). The fact that the counter-conduct procedure operates differently geographically illustrates the link further between counter-conduct and territoriality. There is little consistency of timing of appeals or on what grounds an appeal has to be made. For instance, in Scotland appeals can only be made within six months of the List or when the assessor makes a new entry on grounds of material change of circumstances, whilst in England and Wales an appeal can be made throughout the lifetime of the List. Appeals are made on the grounds of the underlying value, or if there have been changes to the property or external changes to the environment in which the property is situated. In England, appeals against the 2010 List were free and the claimant did not have to give a reason for their appeal. This aspect of the design of the counter-conduct arrangement could contribute to the development of a new identity of the governed (Death, 2010), one that is less powerless before the government. A number of firms would put in blanket appeals and 40–50% properties valuations were appealed (interviewee) and as another interviewee mentioned:

> We had 1.1 million appeals against 1.8 million properties. And they were mountable appeals against single entry sometimes – one for the compile List, one because they wanted material change to circumstances. So, you know, not necessarily 1.1 million properties but 1.1 million appeals against 1.8m (9-val and appeals).

The characteristics of the counter-conduct arrangement favoured the emergence of a field of professionals (experts) sought by ratepayers to receive advice on the appeal procedure (see also Ferry, Funnell & Oldroyd, 2023). This finding is not unusual in the exercise of counter-conduct. Boomsma and O'Dwyer (2019, p. 5) contend that '*the governed mobilising expert knowledge in order to foster particular self-governing practices as part of a subtle strategy of resistance aimed at reifying certain regimes of knowledge*'. An understanding of this behaviour was mentioned by one interviewee who was involved in valuations.

> We spent quite a lot of time trying to get underneath the skin of it, we think they've got a different relationship with their rating agents and their fee models are different because most of the ratings appeals are driven by *agents* who are making money out of it so the very big ones do no win/no fee so their interest is volume essentially, …but quite a lot of agent revenue is always based on appeal so they have a lot more incentive to just keep going essentially. I don't think we ever really got figures on the size of the rating agent market that the volumes of appeals suggested even if they had it was running into millions and millions of pounds essentially even if it was just on a low value cost for the work that they did. So it was quite a big incentive for people to continue to move the market in that way I think (15-comms).

As the fiscal decentralisation programme (governmentality) is predicated upon the ideals of the New Public Management (NPM) (Bahl & Martinez-Vazquez, 2022; Wynter & De Loo, 2023), which includes the efficient use of resources, the governance of the original appeal system must have been anything but financially inexpensive. To solve part of this problem, for example, a new system was introduced in England to reduce the volume of these appeals, known as Check, Challenge and Appeal (CCA). 'Check' means that the Valuation Office has to make available all the relevant information so that it can be discerned whether physical descriptions and other factual details are wrong. The next stage is that the applicant has to give grounds for the challenge. This CCA system has not been introduced in other nations of the UK, for example, in Wales (i.e., there is a territorial element in the application of counter-conduct).

> So, at the challenge stage you need to submit the evidence you're seeking to rely on, say why the rateable value should be altered in a statement as to how the evidence links to the rateable value you're seeking (9-val and appeals).

Since introducing CCA in England the number of appeals has reduced. This reduction is not surprising as the appeal carries financial costs in, possibly, experts to process the appeal, limiting the capacity of ratepayers to self-govern regarding BR. Although, there is a territorial element in the definition of the CCA as mentioned above, in those nations in which it has not been implemented, there is still a reduction in the number of appeals as well. This has occurred, for example, in Wales:

> The VOA [Valuation Office Agency] will claim it as a more accurate list. I think it's more the fact that the business rate systems are more integrated than you think. Especially in the agents' perspective they don't work just in Wales, they work across border. So the knock-on effects of the CCA culture change is probably being felt in Wales even though their systems are different (10-policy).

The impact of CCA is that it has changed the behaviour of taxpayers and agents, permitting to govern more effectively as shown in the excerpt of one of our interviews:

> So, we would say part of that is changing the behaviour of the agents representing tax payers – so rather than submitting blanket, they are now having to firstly verify the facts of the property and check. Secondly, they're having to then evidence the reduction in rateable value that they want at challenge. So they're actually now doing all the upfront work, reporting to their client before they do anything to us.
>
> So that their business models have had to change quite significantly in order to adapt to the English model and that then has an effect on the Welsh approach as well (9-val and appeals).

The modification to this procedure of governance made agents to become self-responsible (Closs-Davies et al., 2021) and more autonomous individuals in the determination of the valuation. Inaccuracies in the calculation may lead to no reduction in the taxable base impacting on their reputation in front of their clients. This quote also illustrates that in the porous geographical boundaries between England and Wales context, governance programmes in the former may impact on the latter. Reducing the number of appeals which were speculative was thought to give more certainty, from both the authority and ratepayer's perspectives, to BR as smaller LAs tended to be much more affected by changes to their rateable values than larger LAs due to their vulnerable finances (interview, 8-val and appeals).

> Interestingly, CCA might have smoothed over because the problem with the old system was that 50% of all valuations were appealed which made the list particularly unstable (15-comms).

Having examined the appeal system as an example of counter-conduct against the valuation process, we now turn to another aspect of counter conduct, which manifests in resistance against economic regeneration. This is not because devolved governments/LAs are against economic regeneration, but the way in which benefits are accrued to these entities. We turn now to examine the counter-conduct in operation beyond individual levels.

4.5. *Counter conduct at the organisational/national level*

4.5.1. *Economic regeneration*

There is a widespread expectation that the totality of the BR system can be used as a policy instrument for economic regeneration. BR are described in numerous official documents, and in almost all of our interviews and focus groups, as a means of promoting growth. This, from the *Business Rates Review*, is representative (HM Treasury, 2015):

> 3.1 Local authorities hold several key levers to drive economic growth at a local level – including planning, transport and local infrastructure. However, many councils suggest that they currently have poor financial incentives to prioritise these areas to promote growth.

However, as BR are a devolved tax, the exact significance of these points differs across the UK. The different funding mechanisms of devolved government finance has different risk profiles, which impact on economic regeneration. In particular, whilst the Northern Irish system bears some resemblance to English rates retention, the Scottish and Welsh systems remain much more centralised.

Another consequence due to the complex funding arrangements for the devolved institutions is that expenditure on economic regeneration through the BR programme does not necessary result in higher overall tax revenues for the devolved nation:

> There's a dynamic with regards to stimulating economic growth, because in a way additional rating revenue is a benefit of economic growth. Providing reliefs and exemptions to stimulate that economic growth which results in a loss to the rating system generates extra tax for Treasury (11-regional govt).

This is because not all taxes are devolved.

> In terms of there's more jobs generated, etc., corporation tax… any income tax or corporation tax that all goes to Treasury. Those taxes aren't devolved. So effectively, we are spending our money generating tax revenue over here, which we get back to some extent. But there's no direct incentive beyond it being a generally good thing for the people of Northern Ireland, but

> there's no tax benefit on this. If we're providing exemptions or relief in order to stimulate additional businesses coming in, if we aren't getting any extra revenue as a result (11-regional govt).

This impact can be quite controversial, to the extent that it may even influence the broader decisions by devolved institutions whether to take full advantage of existing taxing powers and to demand new ones.

> We were in a budget meeting recently and there was this strange thing of us providing additional rate support versus the budget people on our side were saying if we lose the money what do we get? So there's considerations there that are controversial (11-regional govt).

In a macro perspective, the BR programme fits well as part of the wider economic regeneration programme, but from the micro perspective of the details of BR there are countless contradictions and inconsistencies between the programmes. As to how an authority or devolved government might use BR to encourage growth, much emphasis is placed on the protection and encouragement of small businesses, especially through mechanisms such as reliefs for the smallest premises and reduced multipliers for small businesses with slightly larger premises and where those businesses are sited.

BR can also be used to support policies that do not fit precisely within the description of 'growth'. In the context of a tax levied solely on businesses, redistributive rhetoric was not placed in the foreground by our study participants except in the limited sense of symbolic support for small businesses (Peck et al., 2014). The one interviewee who did allude to wider social policies, in the shape of affordable housing part-funded by rates revenues, was unconvinced that the initiative in question would succeed anyway. Many of our participants also recognised the potential for tax competition between localities (Tiebout, 1956) although evidence for this is relatively limited in the present context, as well it might be given the practical difficulties for ratepayers in shifting land occupation. It is unsurprising that the most obvious instances of competition are for new build properties, businesses moving to an area and small business generally; that is, the cases where ratepayers have already decided to move or the costs of them doing so are relatively low.

A particular difficulty in using BR as an economic lever is that it is difficult to isolate the effect of the economic incentive:

> So how do you quantify how important that is to a business, and if you had to pay it would they exist, or would they grow quicker or not quicker? A lot of the case studies we've done where businesses have said business rates are the reason they don't exist anymore. When you look into it, it's usually the business model, and business rates is an element of that. But usually, it's they can't pay their bills, or they're not making any money because no-one's buying their stuff. So as an economic lever, it's quite hard to say whether it's effective or not (10-policy).

It is also difficult to show what has been the quantum of the economic mechanism:

> It's a nightmare for them to calculate what is and isn't extra economic growth. We have this issue all the time and we try and pretend that we can calculate what is extra and what is just displacement, for instance (12-policy).

We now turn our attention to rates retention, an example of the second dimension of counter conduct.

4.6. Rates retention

The second dimension of counter conduct is to indicate '*an area in which each individual can conduct himself, such that it is the domain of one's own conduct and behaviour*' (Davidson, 2011, p. 27). Our example concerns rates retention, which was introduced in England in 2012 and is applicable to Local Authorities (LAs). After 2010, the government proposed a series of reforms oriented to retain a significant part of the business rates within the local authorities with the aim of funding their operation, particularly in areas where business rates are small (Ferry, Midgley, et al., 2023). In this way, the state aimed at territorialising and increasing local authorities' accountability (including spending). However, it is recognised that its success is incomplete (Ibid).

Under rates retention, English LAs can retain 50% of BR revenues, with the remainder being redistributed centrally (HM Treasury, 2020). There has been a long-standing ambition to increase this to 100% and a number of pilot projects have been carried out involving retention of 75% and above (Ministry of Housing Communities & Local Government, 2018).

Scotland and Wales do not operate a fully-fledged rates retention scheme, though under the BR Incentivisation Scheme, Scottish local authorities retain 50% of rates growth above a target (Kapitsinis & Luchinskaya, 2018; Scottish Government, 2020). In sum, BR are an instrument of revenue-raising not only for the UK central government, but also for the devolved nations, English and NI local authorities and, to a lesser extent, Scottish local authorities.

The argument used in England for rates retention is that 'This is to provide an incentive for local councils to facilitate growth and the creation of new businesses in their local area' (HM Treasury, 2020). However, one issue is that retention alters the risk profile for LAs:

> Just rates retention itself, you are making local authorities exposed to their own profits, or their own gains within that local authority. It's trying to incentivise them to grow business, but also punishing them for not growing businesses (10-policy).

The form of governance of conferring greater autonomy to manage BR revenues makes LAs responsible of themselves in the generation and use of resources making them more accountable to voters located within LAs. These LAs would have fewer excuses, then, to underprovide public goods and services to local voters (e.g., Wynter & Oats, 2018). Such autonomy of local authorities (councils) may translate in some form of manipulation to increase their tax base by increasing their list of taxable properties:

> The councils are incentivised to get more value into the list because it means more money for them in rates revenue. So that manifests itself in them being very proactive in liaising with us in terms of new build. The council's building control departments know about new build long before we know about new builds (11- regional govt).

The policy behind this form of governance is that a LA could manage BR skilfully in order to improve the locality, in turn generating increasing the stream of revenues available to that authority to serve citizenry (Loughlin, 1996, p. 128). This notion is reinforced by the practical examples provided by HM Treasury, which concern the funding of infrastructure projects through rate increases: an example is the funding of Crossrail by The Greater London Authority through a supplementary rate rise (Greater London Authority, 2010). This focus was echoed by our interviewees, one of whom envisaged rates-funded infrastructure projects not '*as an incentive to get business in*' but, rather a means of '*alleviating some of the features that are likely to put business off*' (interview). The difficulty of this form of revenue generation is that the income stream is not secure and there are differences between the nations. There has been critical commentary on rates retention:

> The rates retention change in England was coupled with a massive reduction in the revenue support grant. Welsh ministers have continued with their revenue support grant here and not done rates retention. So local authorities are better funded in Wales than they are in England, and they're not as exposed (10-policy).

At first sight, it seems odd that local authorities would need to be incentivised in this way. Surely, they would regard local economic growth as worthwhile without the need for financial incentives, besides which there is scant hard evidence in the voluminous policy literature that rating rules can be used to promote growth (Business Rates Task and Finish Group, 2012: Annex 1).

4.7. Unintended consequences: Divergence of UK and devolved policies due the Covid-19 pandemic

As a devolved tax, the devolved nations set their own BR multiplier and reliefs, and have different appeal systems against the valuation of rateable values. The actual practice of valuation does not differ significantly between the devolved nations, but what type of assets are valued for BR can differ (interviewee). The complication arises from the way that valuation interacts with the Barnett formula for allocating public finance between the nations of the UK. As mentioned previously, a deduction is made from central government funding to the devolved administrations to reflect funds raised from business rates and other devolved taxes. The strains in this arrangement are long-standing but have become particularly obvious since the beginning of the Covid-19 crisis in March 2020.

In England, on March 11, 2020, the government introduced an unprecedented full business rates relief for retail, hospitality and leisure properties for 2020–21, saving businesses £10 billion through centrally funded rates relief (HM Treasury, 2020a:9). The BR support in England amounted to £16 billion (HM Treasury, 2021:2). The relief amounted to 100% relief for small businesses and included leisure and hospitality sectors including pubs. The Budget release also mentioned that LAs would be fully compensated for these additional reliefs (HC121).

Concerns were raised over this additional relief by the devolved governments (interviewee). The rateable values of properties in the other devolved nations are in part much lower than in England.

> We have a different tax base, our average rateable value is around £20,000, England's is around £32,000/33,000. So it's a very different non-domestic property market in Wales than it is in England, and our relief schemes are developed because of that (10-policy).

The other devolved governments wanted to mirror the English Covid reliefs. However, without additional help from the UK government, these devolved governments would not have been able financially to make these reliefs. Part of the reason is that the net rateable values tax base is much lower in NI and Wales than in England, which, although imply it is cheaper to provide reliefs as the rateable value is lower, it would have meant that more properties would be eligible for the reliefs thus reducing the quantum of the tax collected. For instance, NI have previously given small business rates relief on properties with a net rateable value of £14,000 and 93% of properties in NI have an NAV of £51,000 or under. Scotland has more scope as their net rateable value is higher.

> We realised is that actually we've got a lot of small businesses – 56 per cent of our properties benefit from the Small Business Benefit Scheme. We are a little bit worried in terms of the administration but the consequentials that we got have allowed us to effectively replicate what's happening down in [England] (12-policy).

However, in NI this was not thought to be possible as there would not be sufficient resources to fund the additional relief.

> We're estimating very crudely that it would cost us about £200 million to do what [England's] doing, what they announced yesterday. But the Barnett consequentials are that we got for £8 million associated with that particular policy, £25 million in terms of the general business rate measures that they announced yesterday. Even if we used all of our consequentials that we get in respect of business rates, plus our current spend, we still wouldn't be coming close to being able to fund it (11-policy).

This suggests that this second dimension of counter-conduct is only available to crystallise in cases where the economic structure of the countries is stronger, in this case, the property market value. In other words, the economic structure shapes the effectiveness of the devolution policy (Birkland, 2011), and then, this second dimension of counter-conduct. As not all the countries involved here stand in the same economic position, this second dimension of counter-conduct shows a territorial element.

There were subsequent discussions between the devolved government and HM Treasury and additional funds were granted so the devolved nations could mirror the relief that England bought in (interview, 12-policy),[7] a form of counter-conduct isomorphism. However, although this extra money would seem to go some way to reflect the additional cost of providing the reliefs, it also meant that the devolved government could spend this money on other policy areas, as mentioned by one interviewee:

> Well, we can do whatever we want with it, nothing's ringfenced, so that consequential could go into education (12-policy).

Although these devolved nations could not support by themselves the additional cost of the relief, the allocation of resources by central government allowed them to manage their finances with autonomy, as the preceding quote illustrates. The absence of an earmarking legal mandate contributed to the appearance of this second dimension of counter-conduct. Nonetheless, this was short-lived until these additional resources were spent.

The Covid-19 relief reflects deeper strains on the BR programme in a devolved context. In particular, the divergence in tax bases across the different nations of the UK may contribute in turn to divergent BR policies as mentioned by two of interviewees in different devolved governments:

> Whereas in England the tax base on things like petrochemical plants bolster their tax base, when you look at things like the average rates multiplier in Northern Ireland and Wales and what the household charges are in Wales, you'll start to see that's what happening in the devolved administrations versus England now is that Wales and Northern Ireland, because of the scale of the country, can't keep up with what's happening in the business rates system. Where Scotland with a slightly bigger tax base can just about keep up (12-policy).

> That's the one area where consequentials aren't affording us to be able to replicate the permission. And starting to strain, you're starting to see business rates in England with the other suite of taxes that the Treasury can bring into play to subsidise cuts, the devolved administrations don't have those tax levers, and therefore if they can't fund what's happening in England, they can't afford to replicate that, it's resulting in cuts to other departments here to make up the shortfall (11-regional govt).

This illustrates another example of counter-conduct. Although BR and certain other taxes have been devolved, others have not, and this can make it more difficult for the devolved institutions in particular to develop policies that are coherent across all taxes. In this respect Foucault's second dimension of counter-conduct (Foucault, 2008) may not truly be applicable as there are restraints in the area in which the devolved government can conduct themselves. Although conversely this is also an example of the first dimension of counter conduct in the sense that the devolved governments may have to resist further policies of devolution as they are unsustainable. It would be expected that these less successful devolved nations claim for an alternative form of governing, for being conducted in other ways (Foucault, 2009), challenging the programme, its technologies and knowledge (e.g., Ahrens & Ferry, 2015, 2018) and, eventually, putting in check the continuation of the programme as it is. There may also be displacement effects between the devolved countries. This is of particular significance to Wales as the border between England and Wales is much more porous than between England and Scotland, where the lower level of development and harsh terrain makes it more difficult – though not impossible – for ratepayers to shift their activities across the border (interviewee, 12-policy).

5. Concluding discussion

This paper adds to the limited literature on fiscal decentralisation from interdisciplinary perspectives (Wynter & De Loo, 2023), by analysing the political struggle in fiscal devolution, a specific form of decentralisation to elected lower-level government. It does so by reporting on a single case study regarding the fiscal devolution programme in force in the United Kingdom concerning Business Rates, which is an illustrative example of a largely devolved tax. This case study is empirically informed by qualitative sources (focus groups and semi-structured interviews along with relevant documents) analysed through a Foucauldian lens, drawing upon his key concepts of govermentality and counter-conduct.

In the first place, BR fiscal devolution represents one form of governance that confers autonomy to both, the countries that make up the United Kingdom, and by consequence, to the local authorities within their jurisdiction. In this case, BR devolution is thought to increase growth in the areas concerned. It was not our ambition to debate on the effectiveness of the devolution programme, but instead, to dig into the political dimension of its implementation. This interest leads us to posit the first research question of.

RQ1: *How does central government devolve tax powers to lower levels of government?*

Although long claims for decentralisation have been raised worldwide for the merits it brings to governance in terms of autonomy and closeness to citizens' (voters) preferences, inter alia other reasons, implementing this form of governance is not frictionless. Studies

[7] Ni-https://www.nibusinessinfo.co.uk/content/rates-holiday; Scotland - https://www.mygov.scot/non-domestic-rates-coronavirus/; Wales-https://businesswales.gov.wales/business-rates-relief-in-wales#tabs-2; England- https://www.gov.uk/guidance/check-if-your-retail-hospitality-or-leisure-business-is-eligible-for-business-rates-relief-due-to-coronavirus-covid-19, seen 16/12/2020.

drawing on the notion of governmentality rarely bring to the light that different forms of governance are not easily transplanted from one context to another due to the presence of resistance (Ahrens et al., 2020). We aspire to bring a more nuanced understanding of the political resistance occurring within the taxpaying population and at higher levels of devolved nations in the implementation of this devolution programme. Accordingly, we posit the second research question of.

RQ2: *What is the nature of resistance offered by agents within devolved nations?*

Our theoretically informed answers show that the devolution form of governance is put in place through Accounting Technologies of Government (ATG). As reported elsewhere (e.g., Closs-Davies et al., 2021), ATG relate to calculative practice and as such, they involve practices of categorisation and calculation. In this case, as a form of property tax, the ATG concerns the rateable value (tax base), the multiplier (rate) and a set of reliefs (deductions); being the multiplier and reliefs largely decided locally by the devolved nations. This form of governmentality besides conferring the obvious autonomy sought after, allowed policy-makers in office to accommodate the multiplier and reliefs to meet their policy needs. As such, policy-makers can incentivise growth by attracting businesses and offering concessions on areas they believe to be worth of. This form of governmentality certainly has a territorial component in the sense that the local authorities' powers and influence extends within the geopolitical borders of the nations involved. This relationship is not new within the well-developed Foucauldian inspired literature through the calculative spaces notion.

As BR is a tax, it does not come as a surprise that it is disliked by taxpayers as reported by extensive tax compliance literature. It is then expected that taxpayers (ratepayers, to be in line with the technicalities of the tax) offer resistance and challenge the form of governance of using this property tax as a key revenue source. This case illustrate that taxpayers did not challenge the policy as such, but instead resisted or challenged ATG elements. In other words, and echoing Foucault, ratepayers display the first dimension of counter-conduct (Foucault, 1978), that is, the intention of being conducted differently by showing their disagreement with some ATG. Particularly, rather than questioning the multiplier due to the complexities and the knowledge required to do so, their counter-conduct pertained the rateable value. This form of counter-conduct is reflected in the number of appeals to the rateable value. As visible, the devolution programme puts in place institutional (hence, legal) mechanisms of resistance to unfold. This institutional arrangement was, in appearance, poorly designed at first as it had no specific requirements to be filled leading to a disproportionate amount of appeals oriented to decrease the rateable value. In turn, this gave rise to a new facet or service offered by professionals, whose income may be subject to personal tax that could go to central government going against the autonomy targeted by devolution programmes. In order to keep the sustainability of the programme, policy-makers introduced changes to the appeal system to counteract counter-conduct. Counter-conduct is repelled by making ratepayers to incur in additional financial costs to discourage the abuse of the appeal system, which, in turn, strengthened the ATG of rateable value. This form of counter-conduct did not alter the nature of the programme as contended by prior scholarship (e.g., Boomsma & O'Dwyer, 2019), but instead it only protected the operation of the ATG aforementioned.

The mobilisation of counter-conduct is scant in accounting literature and has tended to emphasise its first dimension (e.g., Ahrens et al., 2020) at the expense of the second dimension. This paper illustrates on this dimension that indicates '*an area in which each individual can conduct himself, the domain of one's own conduct and behaviour*' (Davidson, 2011; Foucault, 1978). As the case illustrates, this form of counter-conduct is only possible when there are structural conditions (Birkland, 2011) acting as catalysts to sustain the policy. In this case, the main condition was economic strength of the property market. Notwithstanding, there might be other less visible catalysts such as the strong institutional arrangements and capacity of the UK bureaucracy to hold self-responsibility of their actions. We call for more studies to explore this second dimension of counter-conduct in different contexts in terms of economic development and institutional arrangements (including the existence of corruption, which may frustrate the effectiveness of devolution programmes in the localities wherein it is strong).

Importantly, this study contributes to a largely overlooked aspect of counter-conduct, its interrelationship with space/territoriality to occur. This study has reported that counter-conduct may vary across the nations involved. The porous boundaries between some of the devolved nations (for example, England and Wales) may make this resistance more effective by, for instance, relocating businesses in jurisdictions with lower rateable values or multipliers or higher reliefs. As the influence of local authorities is over a delimited territory, ratepayers' counter-conduct is conditioned by the geographical boundaries of the local authorities and the countries involved. In other words, the territory appears as a geographical weapon to robust the nature of counter-conduct. Eventually, this interplay between counter-conduct and territory translates in BR intra-jurisdiction competition and contributing to the instability of the programme. In this paper, we bring this interplay to the fore which had remained obcured by prior analyses of counter-conduct.

We hope that this paper inspires other interpretive and critical tax scholars to further explore the interplay between governmentality, counter-conduct and territoriality/space in other settings. Different political circumstances and arrangements, in addition to rivalry between national jurisdictions may illuminate in further dimensions of counter conduct in other less developed nations with high level of centrality of policy decisions.

Moreover, our paper was mostly concerned with exploring counter-conduct in practice from the voice of relevant policy-makers. We invite other scholars to pay attention to other forms of naturally occurring data in the forms of attendance to meetings and public speeches between actors concerned, including citizenry. This greater data corpus may illuminate in other dimensions of counter-conduct and political discourse supplementing existing recent fiscal decentralisation research (e.g., Wynter & De Loo, 2023).

Data availability

The authors do not have permission to share data.

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