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# How should the UK govern itself in the time of Brexit?

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CONSTITUTION  
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## **About the Author**

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## **Message from the Author**

My thanks to Lindsay Aqai, Ben Goodair and Jack Sheldon for their assistance, and to Andrew Blick and Nat le Roux from the Constitution Society.

This is the published version of the inaugural lecture delivered by Professor Michael Kenny at the University of Cambridge on 28 March 2019.

Let me start with what I suspect will be a fairly uncontentious observation about the current situation. We are living through a crisis in our political life prompted by the result of the Referendum held in 2016 and the tortuous and protracted effort to implement its outcome. My next observation moves perhaps into more contentious territory. Whilst it is clear that the understandings and conventions associated with parliamentary government are under severe strain, it is not certain that the air of crisis that currently prevails will result in a sustained attempt to reform either parliament or government in a fundamental way. We have seen previously how episodes of perceived crisis in British politics – for instance the MPs expenses scandal or the Iraq War – which engendered loud complaints about core features of the political system, subsided relatively quickly. Perhaps Brexit is different in that it has placed so many of our institutions under severe pressure at the same time, but we should not underestimate the capacity of the British system to endure and adapt through the storms, once political circumstances change.

But there is one area of our constitutional settlement to which the notion of crisis can be credibly applied. This concerns the question of how the constituent parts of the UK are governed, and how they relate to one another and the central state. And this is the theme that I want to explore in this lecture.

My starting point is to take you away from Brexit, and to draw your attention to the whole, not the individual parts, of the UK's system for managing its diverse territories. Rather than following the established habit of considering each as fundamentally separate (an approach that is perpetuated by the way our system of governance works, and is also replicated in academe, with some notable exceptions), we would do better to approach the UK as a complex and interactive system made

up of different political communities, all moving at different speeds and – in some respects – in different directions. This would, I think, help us better grasp the various unforeseen consequences of some of the key changes to the internal governance of the UK of the last two decades. It should also challenge the assumption that territorially rooted politics happens only at the geographical peripheries of the state.

Above all, I would suggest that a more systemic perspective helps us see that some of the discontents that underpinned the vote for Brexit reflect dynamics and tensions which have over time made the Britain's model of governance more brittle and decreasingly legitimate. The presumption that Brexit is wreaking havoc upon an otherwise stable constitutional environment is a fundamentally misleading one.

My focus then is upon the territorial constitution. This concept, broadly put, has three distinct dimensions to it. It is commonly used to characterise the institutions, rules and norms through which a polity manages the governance of its internal territories. But it also signifies vertical relations between citizens and governing authorities, touching upon the patterns of national identity and civic affiliation which prevail among the peoples of a given state. And to these I would add a third aspect – the geographical distribution of resources and authority within a polity, and shifting popular attitudes toward these.

My sense is that in the course of the last twenty years tensions have been building along all of these axes – governance and administration, identity and nationhood, and the geography of distribution – and these have significantly eroded the basis for a more traditional model of British statecraft. The notable weakening of the informal mode of governance which evolved over several centuries in the British

context is, I will suggest, a vital – but overlooked – backdrop to the unsettling of the territorial constitution. Over some considerable time there has been a notable thinning of the medley of governing instinct, wisdom, mythology and calculation which conditioned the instincts of Britain’s political elites when it came to governing the Kingdom.

The UK has never been a unitary state, and was rarely viewed as such by its elites. Following the succession of unions which England forged – by conquest and treaty – with elites from other parts of these islands from the sixteenth century onwards, some notable continuities in the pattern of its governance are apparent – which is not to underplay moments of profound conflict in British politics, for instance over the Irish Question in the late nineteenth century. But, in broad terms, its evolving governing code is an important part of the explanation of how the UK has been able to accommodate the persistence of diverse legal systems, the survival of such distinct national identities, and the durability of languages other than English within its borders.

This statecraft has of course evolved and adapted to changing circumstances, and at times been subjected to political, and occasionally military, challenge. It was notably defeated in the case of the Protestant Ascendancy entrusted to govern Ireland. Paradoxically, this major reversal for Britain, and the resultant partition of the island of Ireland, rendered this model of arms-length statecraft easier to continue in the decades that followed the establishment of the Irish Republic. From the 1920s through to the 1970s a fairly stable system of territorial governance was re-established in Great Britain and Northern Ireland – characterised by Jim Bulpitt (one of the few political scientists writing before devolution to grasp the centrality

of territorial issues to British politics) as the ‘dual polity’.<sup>1</sup> Governance on this model rested on an awareness of the need to balance the political and economic clout of the capital city with policies designed to achieve a rough equilibrium with the needs and interests of the manufacturing and rural interests which prevailed in – what he termed – the English ‘provinces’. This point is worth underlining given its pertinence for our current situation.

This analysis placed considerable emphasis on the approach taken by the political centre to the tasks of territorial governance. And it helps explain why the demise of this older statecraft represents a significant potential threat to the future of the UK. This tradition was complemented by a rather ad hoc institutional structure, including offices of government to represent Scotland, Wales and Northern Ireland which were established to ensure that British governments were cognisant of voices and interests within them. Equally, an important role was played by senior political figures from these territories in guiding the thinking of British cabinets; in recent times think of the role played by figures such as like Lord Ian Lang and Sir Malcolm Rifkind.

The demise of this tradition and the diminished influence of its political representatives, has its roots in the more conflictual years of Thatcherite rule, followed by New Labour’s bid to put the territorial constitution onto a quasi-federal footing. And of course, the rise of nationalist politics in Scotland and the dramatic collapse of the unionist parties there between 2007 and 2017, were all contributors to the emergence of a much more fissile set of territorial relationships.

Devolution deserves particular emphasis in this story. From the passage of the relevant legislation in

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<sup>1</sup> Jim Bulpitt, *Territory and Power in the United Kingdom* (Manchester University Press, 1986).

1997-98 up to the current period, this most hide-bound and constitutionally cautious of countries has gone in for an extended process of disjointed experimentalism in terms of its own internal governance. The settlement created by New Labour has been in flux ever since its foundations were laid. Successive governments have continued to adjust the scope and terms of devolution in Scotland and Wales. In Northern Ireland, meanwhile, the suspension of the power-sharing arrangement in January 2017 has generated considerable uncertainty over the future of devolution in the Six Counties. The consequences of these and other related changes have been far-reaching and not always anticipated. The devolved governments have at times tried to increase the range of powers available to them, with Wales casting envious eyes at the ample Scottish settlement once it had established its governmental model, and a series of government-appointed Commissions preparing the way for more robust devolution in both cases.

More generally the clientelist dynamic between national government and the UK, which is built into this form of devolution, has over time incentivised politicians in these areas to compete over who is best placed to get the best deal from the centre, not to co-operate with it in achieving shared goals. Perhaps the most unexpected impact of devolution has been the disputes it has generated within the Labour, Conservative and Lib Dem parties about how they should configure the relationships between their UK and national organisations. More recently a demand has emerged in Labour circles for an English national party to be established.

The UK's centre certainly did not anticipate the prospect that there might one day be sustained political disagreement between a devolved government and the UK about the nature and

terms of the devolution settlement even though it was apparent from an early stage that different models of sovereignty were now embedded in the institutional structures of the post-devolved union. British politics continued on the assumption that parliamentary government was still its ultimate locus, whilst elsewhere visions of the UK as a polycentric polity became entrenched, and the British state did at times appear to concede that the devolved governments had their own quasi-legal personalities, as expressed for instance by the declaratory 'permanence' clauses in the Scotland Act 2016 and Wales Act 2017.

The inability to think of devolution in the round also meant that its architects gave little thought to the likelihood that the largest people in the Kingdom—the English, who were (with the exception of the inhabitants of London) left without any form of devolution of their own—might one day come to view these arrangements through resentful eyes. This latter trend has been aggravated by the perception that a more generous welfare settlement has been sustained by the Scottish government in part because of the generosity of English taxpayers. The primary aim of devolution was to kill off the nationalist threat in Scotland and Wales. But its introduction appears to have stirred up legitimacy issues by a different route. Over time, difficult questions about where sovereignty lies, and who has or should have control over a small nation's affairs, have worked their way to the heart of political life all over the UK.

Standing back for a moment from this complicated story, it is worth trying to set these trends in a wider, international perspective. The UK is far from being alone in seeking to decentralise some of its core functions to lower tiers of government. Indeed the important analysis of regionalisation

supplied by Hooghe, Marks and Schakel<sup>2</sup> showed that between 1950 and 2006, in nearly all of the forty-two countries they looked at, significant forms of regional decentralisation were introduced. Their primary explanations for this pattern were: concerns that key policy goals could not be delivered centrally; growing demands from below for greater self-rule; and democratisation because democratic regimes are far more likely to delegate powers than authoritarian ones. Viewed in this light, the UK has been late to the decentralisation party, but its approach in these areas is far from atypical.

But not when it comes to the fiscal question. These authors observe that taxation powers are among the least likely to be given away by central states. But even allowing for this pattern, the UK has been one of the most reluctant decentralisers when it comes to encouraging subordinate governments to take greater responsibility for raising their own revenues. In 2007, for instance, Northern Ireland, Scotland and Wales were responsible for around 10% of their own revenue, compared to 55% for Australia's regional governments, 56% of Germany's and 75% of Switzerland's.<sup>3</sup> The centre has retained its reliance upon the mechanism of redistributing resources using block grants whilst retaining some funding streams that are allocated directly to devolved territories (for instance through the City Deals programme). The only really significant experiment in fiscal decentralisation has happened in relation to Scotland, which was permitted to set its own income tax rates and thresholds, and has been assigned responsibility for air passenger duties since 2016. This very mixed approach to devolution – giving away spending powers and significant capacities, but retaining central control over taxation and the

distribution of funding around the UK, appears to be one of the most distinctive features of the UK model.

This disjuncture is revealing about the lack of join in the thinking about devolution at the centre. This was reflected too in the long-held assumption that the state itself could carry on unchanged by these reforms. 'Devolve and forget' is the ironic shorthand used in policy circles to characterise this approach, although devolve and regret may now be more apposite. The gap left by the falling away of a more traditional statecraft has not yet given way to an alternative philosophy of the territorial constitution.

One important consequence of this decidedly un-strategic approach has been the development of a new multi-level system of governance which appears to yield relatively few benefits for the polity as a whole. Giving powers to government in its various parts has led to a greater diversity in the kinds of approach taken to policy issues, and permitted some genuinely innovative responses to social policy questions – the introduction of minimum pricing for alcohol in Scotland or the charge for plastic bags in Wales – but there is scant evidence of the governments in this system learning from or informing each other in a systematic fashion. Indeed, the nature of the political competition that prevails between the UK parties tends to shape a political discourse that focuses on negative comparisons between social and public service outcomes in them.

As the statecraft tradition has waned, other contending visions of the constitutional character and future of the UK have become more central to British politics and found homes in the two main

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2 Liesbet Hooghe, Gary Marks, and Arjan H. Schakel, *Regional Authority: A Comparative Study of 42 Democracies* (Routledge, 2007).

3 Alan Trench, *Funding Devo More: Fiscal Options for Strengthening the Union* (IPPR, 2013).

UK parties. On the Labour side, figures like Gordon Brown argued that devolution might be the start of a wider process of constitutional codification, and could even lead towards a formal federation. And in Conservative circles, an older vein of British pragmatism has been displaced by the arguments of those who have recycled a decidedly 'unitarist' vision of the polity, taking inspiration from an older, English constitution vision espoused by Enoch Powell and some later Thatcherites.

There are echoes of this approach in our current Prime Minister's repeated, and rather mechanical, references to 'our precious union', as for instance in this excerpt from her Lancaster House speech, delivered in January 2017:

It means we believe in the Union: the precious, precious bond between England, Scotland, Wales and Northern Ireland. But it means something else that is just as important; it means we believe in a union not just between the nations of the United Kingdom but between all of our citizens, every one of us, whoever we are and wherever we're from.

This insistence upon the indivisible and singular nature of sovereignty as the precondition for the constitutional integrity of the UK has been a notable feature of current parliamentary debates about the Withdrawal Agreement.

And yet, despite the resort at Westminster to an older narrative of parliamentary sovereignty, the ever-turning ratchet of devolution and the growing salience and appeal of the national identities associated with the different parts of the UK, point in a different direction. These dynamics have worked to unearth one of the foundational issues affecting the legitimacy of any modern state. Where exactly is the demos to be found?<sup>4</sup> To which political

community citizens owe their loyalty has become an increasingly fraught and hard-to-answer question across the UK.

And this increasingly appears to be the case in England too, the territory with a very long pedigree of governance by a centralised authority, but now increasingly inclined to rediscover its own distinctive roots and identity.

The question of whether it is feasible to introduce political autonomy to the UK's far-flung territories whilst maintaining their political influence at the centre, without irking the English, has long preoccupied the British elite. The Labour-dominated parliament elected in 1997 was supremely confident that this was not and never would be a problem. Yet, from the middle of the 2000s, a range of polling evidence and a growing body of qualitative research, indicated a souring of the mood in many parts of England. Various surveys laid bare a clear correlation between the keenest English identifiers and Euroscepticism, as well as an identification with causes and values that were alien to the socially liberal outlook of most of the political class. This group was also more likely to feel that aspects of the existing domestic settlement were unfair to England, particularly when it came to the geographical distribution of public spending and the question of whether MPs from outside England could exercise undue influence on England. What has made this development all the more important is that Britishness has become much more of a badge of identity among younger, metropolitan city-dwellers and many (though not all) ethnic minority citizens. And so, national identity in England has developed in an increasingly bifurcated way.

The pattern of disenchantment which drew many

<sup>4</sup> Michael Keating, 'Brexit and the Nations', in Gavin Kelly and Nick Pearce, eds., *Britain Beyond Brexit* (Political Quarterly, 2019).

to reassert their English nationhood was multi-faceted and directed variously at politicians, financial elites, and bankers and, I would suggest, a governing system that felt remote and neglectful. One part of it was rooted in the geographical divides associated with Britain's recent patterns of economic development and public policy. Key trends here include: the very rapid disappearance of manufacturing in various parts of England during the 1980s and the failure of subsequent regional policies to address its consequences; the growing focus in public policy from the 1990s upon achieving rapid economic growth in a small number of cities; and recent demographic trends which have accentuated the divide between poorer peripheral towns, where older people tend to live, and cities heavy with younger graduates.

Similar dynamics have been at work in many western countries as the inhabitants of 'forgotten about' places appear more inclined to rebel against the cues of mainstream political parties. But these trends have played out in different ways depending upon the party systems and political cultures in which they emerge. And, importantly, disenchantment has been expressed differently across the UK itself. In the Brexit referendum the vast majority of English towns located in coastal areas or in post-industrial regions voted overwhelmingly in favour of Brexit. Think of Wigan, Wakefield, Burnley, Redcar and Grimsby. But in Scotland, similar towns in areas associated with manufacturing decline all voted to Remain. Think of Paisley, Kilmarnock, Hamilton, Airdrie and Perth. The very different ways in which resentment is politically channelled in these settings suggests the limitations of a purely economic explanation of Brexit, and points to the emergence of very different political priorities among the inhabitants

of declining areas in these neighbouring territories.

In England too an enduring seam of scepticism about EU membership within many rural counties and large parts of the South of England and the Midlands, was also integral to the vote to leave. And in these areas, as well as in more deprived communities, a growing sense of constitutional discontent was also apparent from 2008 onwards.

One important, and perhaps overlooked, aspect of this growing pattern of resentment was a sharpening hostility to London itself as the seat of political and economic power. Whilst scepticism towards the capital city is far from novel in England, my suspicion is that this sentiment fused with a more contemporary form of disenchantment with the ruling metropolitan elites and its policy priorities in areas like immigration and, indeed, the EU.

A rising sense of hostility towards a global city that seemed to have forgotten it was also England's capital, reflected the material reality associated with the very different trajectories of economic recovery after the crisis of 2007-08, and the markedly different rates of employment creation and productivity associated with London and the South East, and the other English regions.

This growing bitterness also traded upon an appealing, but simplistic, understanding of the way in which the geographical redistribution of resources occurs within the UK, given that London is disproportionately the provider of revenues used to support services elsewhere. In 2016 for instance, its fiscal surplus was £32.6 billion.<sup>5</sup> In this respect, the ingrained tendency at the centre to keep the processes associated with territorial spending hidden from political contestation (a hangover of

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5 Jack Brown, *London, UK: Strengthening Ties Between Capital and Country* (Centre for London, 2019).

the older model of governance) has ensured that very few politicians are able or willing to speak openly about the kinds of financial redistribution that are integral to the British model (with some notable exceptions like Gordon Brown). Heightened resentment at the concentrations of wealth, power and influence with which London is associated has been palpable in much of provincial England and has been stimulated by the impact of austerity upon public sector spending which has had a markedly greater impact outside the capital.

A good deal of commentary since Brexit blames an ascendant English nationalism for the Referendum outcome. I am myself not convinced that this is the right way to characterise complex shifts in English attitudes and identity, not least because these have not resulted in any kind of coherent or clear demand upon the British state. A more accurate characterisation is that there has been a significant thinning of the tacit consent endowed by many English people upon the systems of governance and politics they encounter. Despite the plentiful evidence of these developing attitudes, it has taken the advent of Brexit for politicians at the centre to start to engage with these trends and consider how best to respond to them.

Two important questions have now moved into the political mainstream as a result: how might a greater degree of self-government for the English be delivered? And is this achievable within the confines of a polity that contains such a fundamental asymmetry in its territorial governance? These questions are now in the political ether, but are also currently stymied by the protracted crisis over Brexit.

For Britain's politicians and policy-makers, the answer typically has been to contemplate administrative devolution within England. New

Labour sought to convert the rather technocratic model of economic co-ordination it built up into a meaningful form of regional government. It failed entirely to win consent for this project, and abandoned its efforts following a Referendum in the North East of England in 2004 that went badly wrong for the governing party (and which might in retrospect be seen as a harbinger of the 2016 Referendum – not least because of the involvement of Dominic Cummings in both of these campaigns). Ever since, the question of English devolution has become a low-level political football.

The Coalition, and its Conservative successor, scrapped Labour's model, introducing new non-statutory bodies – LEPs – with far more limited remit, and returned some functions (business innovation and skills in particular) to the centre. They also pursued bespoke deals with different local stakeholders to establish a new suite of Combined Authorities, most of which were led by elected mayors. These innovations are still sufficiently novel, and their powers so varied as to make any confident evaluations of their efficacy difficult. But it looks unlikely that reforms in this area will stop any time soon. There are clear indications that John McDonnell would swing a government led by Jeremy Corbyn back behind the model of regional governance which went down in flames a decade ago. And it would do this despite the plethora of evidence that people in England overwhelmingly identify with parishes, counties, towns and cities – and not artificially created regions.

One of the underlying reasons for this unending tinkering with the mezzanine layer of governance in England is the failure to establish a viable model of devolution here in comparison with the more coherent and rooted forms introduced elsewhere in the UK. This distinction reflects the deeply bipolar perspective the centre takes to the different

parts of the polity. A recent examination of the inception documents of these reforms shows that notions of self-determination, national pride and the right of people to pursue their own priorities infused official justifications for reform in Scotland and Wales.<sup>6</sup> But in England regional or combined authority devolution is repeatedly framed in terms of economic growth, regeneration and concepts such as functional economic geography. The difference in language and mind-set is strikingly stark; decentralisation in England is framed around the achievement of centrally directed goals.

The overwhelmingly functional character of this thinking has resulted in the relative neglect of the ingredient which is, international evidence suggests, fundamental to successful innovation in governance. That is a sense of identification among local inhabitants and the newly created jurisdiction. Aligning functional capacity, coherent economic geography and a sense of identity rooted in place, is undoubtedly far from easy, and there are some difficult trade-offs that need to be made. But without attending seriously to this third leg of the devolution stool, establishing legitimacy and ensuring wider engagement are much harder to achieve. The most obvious cases in England where these three elements appear broadly to align are Greater London and the new Greater Manchester authority. The tortuous – and salutary – story of the ‘One Yorkshire’ devolution deal offers a powerful illustration of the tensions that can emerge between these different aspects of devolution. After years of haggling among local political stakeholders and authorities, an agreement was reached over a prospectus for a Yorkshire-wide devolution – only to be rejected by government in February 2019 on the

grounds that it did not meet the test of functional economic geography.

The emerging sense that the administration of England is more fractured, less coherent and too remote has also been abetted by recent trends in public service provision in the last twenty years. The increasingly fragmented manner in which services like health are now organised means that, from the citizens’ perspective these systems are harder to navigate and far more opaque in terms of their lines of accountability. There are, I would surmise, some important, and as yet unexplored, connections between deep frustrations at the ways in which governance works in England and some of the sentiments flowing into the European issue in 2016.

Looking back across this period, I am struck by how inhibited debate about the English Question has been by the assumption that it constitutes what public policy theorists call a ‘wicked problem’ – that is, a complex, protracted problem which elicits solutions that would be more likely to aggravate than alleviate the underlying difficulty. There is obviously something to this argument, given the relative size of England compared to other parts of the union which has made nearly all constitutional experts deeply sceptical about any form of devolution to the national level. But it may be that this orthodoxy has become too sacred in constitutional circles and neglects the possibility that the circumstances in which this issue is now aired, and the underlying problems that are its source, demand more concerted and imaginative responses. There are many flaws with the system of ‘English votes for English laws’ which was introduced in the Commons in 2015, as Daniel Gover and I have pointed out,<sup>7</sup>

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6 Mark Sandford, ‘Signing up to devolution: the prevalence of contract over governance in English devolution policy’, *Regional and Federal Studies*, 27, 2017, pp63-82.

7 Daniel Gover and Michael Kenny, *Finding the Good in EVEL; an Evaluation of ‘English Votes for English Laws’ in the House of Commons* (Centre on Constitutional Change, 2017).

but it is worth noting that it has been successfully implemented in the teeth of nearly all expert opinion.

But our discourse in this area has been inhibited too by the mistaken assumption that changes to the constitutional plumbing are sufficient to address the deep wells of disenchantment described here. There is a real need to think too about how public policy can be geared towards recognising and addressing the challenges associated with the spatial patterning of inequalities across the UK. The debate on these questions is beginning to make some headway, with some important work by bodies like the Commission on Inequality in Education<sup>8</sup> on the profound divide between the opportunities and outcomes of those who have a degree and those who do not, with a large number of the latter living outside large cities. And the advent of a government-sponsored Industrial Strategy may well create an institutional space where evidence and strategic thinking can coalesce, and where considerations of place and locality can be made integral to the challenge of boosting regional economic growth.

But the pulsating questions about governance and sovereignty which I have been discussing here also need to be integrated into these policy debates. Does the central state really understand the ways in which the economies of the different regions and localities operate? Given the limitations of the data it holds about many of these, and the failings of centrally directed policy to address the issues which have driven rising discontent, there are strong grounds for scepticism on this score.

Similarly, we need to move beyond the simplistic notion of a singular dichotomy between

metropolitan and left-behind places which frames a good deal of academic and policy thinking at the moment. Instead we should work towards a more granular and territorially differentiated understanding of the challenges which different parts of England face. As research we are developing here at the Bennett Institute shows, the idea that certain classes of town – ‘post-industrial’ or ‘coastal’ for instance – can be understood as suffering the same kinds of disadvantage is deeply misleading. Different factors – including proximity to larger urban conurbations, transport linkages, and historically embedded skill-sets – do much to dictate their varying fortunes, and policy-makers need a much more refined understanding of these.

My contention is that devolution – both in its half-developed current form, and as it might feasibly be developed – ought to be much more integral to debates about the policy mix required to tackle the challenges facing left-behind communities. This is partly because of the need to tackle the rapidly diminishing legitimacy of parliamentary government in the eyes of many citizens (a trend which Brexit may well accentuate), and also because locally rooted problems are often better addressed by layers of government that are closer to them.

Whilst the state has focused pretty relentlessly upon the beneficial economic outcomes of delegating delivery to subordinate levels of administration in England, the consensus of the extensive international literature on decentralisation suggests that the evidence for such pay-offs is far from conclusive.<sup>9</sup> There appears to be a firmer basis for the claim that devolved policy-making can be successfully tailored to addressing local problems

<sup>8</sup> *Commission on Inequality in Education* (Social Market Foundation, 2017).

<sup>9</sup> Andrés Rodríguez-Pose and Adala Bwire, ‘The Economic (In)Efficiency of Devolution’, *Environment and Planning A: Economy and Space*, 36, 2004, pp1097-28.

and boosting the civic culture of particular places.<sup>10</sup> And there are some compelling international examples of co-ordination between different levels of a state working together to tackle pressing social challenges.

It is for this reason that I am myself sceptical about the default preference for localism, and the deep anti-statism on which this idea rests, which has grown up in some parts of the political world. We would do better I think to focus on building viable, legitimate and robust forms of devolution, and finding ways to ensure that the central state supports and works in partnership with the mezzanine tier. The need to rethink devolution applies outside England too. The passing of powers in a zero-sum fashion to lower layers of governments has stunted the development of ideas about shared governance and the pursuit of joint endeavours. In the devolved territories the idea of self-rule has tended to crowd out notions of shared rule, whereas in England it has been almost exactly the other way around.

On this issue, the regionalisation study I cited previously is especially interesting. Its authors observe that in a small number of states, Belgium being perhaps the most striking example, an extended phase of devolution along the self-rule principle has resulted in the creation of conditions that are damaging to the stability of the entire state. There followed a concerted effort to build mechanisms to promote shared rule to offset the greater rights enjoyed by different political communities. It strikes me that we should seriously ask ourselves if the UK is approaching such a moment.

Which brings me, finally, to Brexit. The EU

functioned in part as the glue that held the devolution settlement together, and so the process of securing the UK's departure is bound to have a destabilising effect upon its internal relations. The Single Market provided for a unified economic and regulatory space within the UK in matters that were the responsibility of devolved administrations, for instance competition policy and agriculture, and the EU supplied a discursive context for ideas of shared and divided sovereignty which were hugely important in different parts of the UK.

There is a real possibility that the process of leaving the EU will inject further turbulence into the constitutional politics of Scotland and Northern Ireland. In relation to the former, the prospect of leaving two unions simultaneously makes independence a more fraught proposition in some important respects, not least in terms of the currency question. At the same time, the sight of such profound dysfunction in the British parliamentary system, and the perception that the future of the entire country may depend on the internal politics of its increasingly fractured parties, could do much to keep this cause buoyant. Some recent polls suggest that the SNP has started to eat into Labour's vote as a result of the latter's contortions over Brexit.

In Northern Ireland, which is most directly affected by the prospect of a new land border with the EU, the prospects for territorial-political conflict are more imminent. Brexit has accentuated deepening sectarian tensions whilst also effecting a new split within the unionist community. The backstop does have the potential to alter the North's position in relation to the rest of the UK, but then so does No Deal, which also puts the Good Friday Agreement into jeopardy. And the latter scenario creates the

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<sup>10</sup> Michiel De Vries, 'The Rise and Fall of Decentralization: A Comparative Analysis of Arguments and Practices in European Countries', *European Journal of Political Research*, 38, 2, 2003, pp.193-224.

likelihood of a return to direct rule by the British state and the prospect of a major nationalist backlash in the province.

These are prospective scenarios only and we cannot be sure how they will play out. Already there has been a sharp political conflict over the question of who exactly should take back control of powers returning from Brussels in areas of devolved competency. This resulted in the Scottish parliament's refusal in 2017 to support the EU Withdrawal Bill and the UK parliament's decision to pass it irrespectively, in breach of the previously sacred Sewell convention. The subsequent decision of the Scottish government to publish a Continuity Bill resulted in the UK bringing a case taken to the Supreme Court, a harbinger perhaps of disputes that lie ahead as we proceed to the next stage of negotiations with the EU.

In conclusion, there are good reasons to suppose that the issues associated with the UK's territorial constitution have become, and will now remain, at the heart of British politics – not in its shadows as they have been for most of my own career as an academic. In this context a greater readiness among analysts and policy-makers to consider the UK as a complex, interactive and a fairly volatile system, is increasingly needed. And so too a greater willingness to step out of the tramlines of extant constitutional debate and think more creatively and strategically about where are the points within this system where leverage can be applied, pressure eased and renewal attempted.

Rethinking the territorial constitution is now, I suspect, an unavoidable challenge, not just an interesting academic pastime. This will necessitate some pretty concrete thinking about what kinds of process and institutional space would allow for deeper, bi-partisan and cross-national

reflection away from the pressures and passions of current political debate. Once we are beyond the immediate political crisis over the passage of the Withdrawal Agreement, the case for some kind of all-round consideration of the governance of the UK (as suggested by various parliamentary Select Committees in recent years) is very strong. It is worth reflecting that the last Royal Commission on the Constitution happened in 1973 – at the very moment when the UK joined the European bloc. As we move to leave it, it may now be time to organise another.

But there is also now an overwhelming case for incorporating into any such process the deliberative techniques and citizen consultation methods that are working their way into the world of public policy (though more slowly in the UK than elsewhere). These kinds of approach are very pertinent in a context where basic questions of consent and legitimacy are now so salient and contested in the UK's territorial political system. Establishing a deeper understanding of different national patterns of thinking, and discovering how today's citizens approach the principles and trade-offs associated with the governance of a multi-national polity should be a priority for policy-makers and politicians alike.

But reformation will not be possible without the state and leading actors at the centre being willing to engage and alter their own mind-sets. One of the key moves here is for the central state to internalise a different kind of understanding of its own role in relation to the other political communities it has spawned. The reverse logic of devolution is that the centre needs to become an arbiter and co-ordinator, as well as a player in its own right. And this means learning and adopting the language and ethos of partnership with other centres of political authority across the UK.

The current risks to the sustainability of the UK are very real and, importantly, they lie not just in its peripheries but in the English heartlands too. In the UK's political centre there is a growing need for the key political actors to reflect more carefully on what might be the implications of the doctrinaire pursuit of their own political projects for the domestic union. In the current maelstrom, all of the available options in relation to Brexit – including revoking Article 50, holding a People's Vote and the various kinds of Leave – are likely to make some groups of people in different parts of the state angry and resentful, and such sentiments may well have powerful spill over effects upon territorial relationships. At an even more basic level, the lack of understanding at Westminster about how the UK's territorial constitution works is itself a major problem, in a context where the need to establish some shared political principles in areas such as intergovernmental decision-making and the rights of governments and parliaments in relation to the UK is imperative. Without changes to these mentalities and a commitment to working towards a shared account of the UK's constitutional system, there is every chance that Brexit will have existential implications for our own union, as well as the one we are trying so hard to leave.





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First published in Great Britain 2019

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Top Floor, 61 Petty France

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ISBN: 978-1-9998886-8-8

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