



Is British devolution a step toward federalism?

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In 1997 Tony Blair won a landslide victory at the polls for New Labour on a programme that included proposals for radical constitutional reform—with particular emphasis on the devolution of power to Scotland and Wales.

Britain had one of the most centralized systems in Europe and the pressure for greater independence from London had been mounting and threatened potentially to wreck the unity of the United Kingdom.

“Devolution”, in this context, means a process by which powers are *transferred*, without parliament relinquishing its supremacy. And soon after it took office, the Blair government drew up a devolution package including a Scottish parliament with tax-raising powers, and an assembly (with much less power) for Wales.

The Conservative Party saw these proposals as the beginnings of the “Balkanisation” of Britain that would lead to increased fragmentation and conflict. Conservatives expressed the fear that such decentralization could lead to a reactionary backlash in England and fuel passions of nationalism and hate.

The debate on devolution is by no means over and has stirred feelings of the English as a separate nation with a distinct history and identity. This is compounded by increasing resentment against rule “from Brussels” which could in the future lead to a split from Europe. Some see closer relations with North America as a logical substitute both emotionally and historically for the European Union.

The Scottish case: a long history

Relations between Scotland and England have historically been uneasy and disputes were common on trade and colonial protectionism.

In 1707 to guarantee prosperity the Act of Union established a new kingdom of Great Britain merging the English and Scottish parliaments with joint representation in Westminster. At the same time the Union guaranteed the independence of Scotland’s Presbyterian church, its universities and its legal system. Other clauses in the Union saw that the two countries should be taxed in the same way, have the same currency and enjoy equal rights in trade giving Scottish traders access to rich colonial markets.

At the end of the nineteenth century a Scottish office was created and a Scottish secretary has usually been a member of the cabinet. Further, Scotland’s voice could be heard in parliamentary committees that dealt with Scottish legislation.

In 1979 Mrs Thatcher, a figure unloved in Scotland, came to power as prime minister, representing an ideology anathema to the Scottish political culture. For almost 20 years the political colour of the government in Westminster was at loggerheads with political feeling in Scotland.

During the Thatcher period, legal experts, representatives from the churches, political parties, business groups and labour organisations in Scotland worked out a Claim of Right for the “sovereign right of the Scottish people to determine the form of government best suited to their needs”. This Scottish Constitutional Convention published a report recommending a separate Scottish parliament, an idea that influenced New Labour in government.

A White Paper was drawn up in 1997 by Blair’s new government for devolution for Scotland including a parliament in Edinburgh. These plans were put to the people in a referendum in Scotland and were given a large measure of support.

Three-quarters voted in favour of a Scottish parliament and almost two-thirds endorsed the proposal for tax-varying powers.

A new parliament quite different from Westminster

In 1999 the 129-member parliament was elected for a fixed term of four years. The parliament differs from Westminster in some important ways. Its physical layout is horse-shoe shaped, encouraging a consensual style rather than the traditional government versus opposition style. And it has a First Minister (a Scottish prime minister) who is elected by all the members of parliament, using a modern electronic voting system.

The royal prerogative is preserved in that the First Minister elected by the members must then be formally *recommended* by the presiding officer (Speaker) for ratification by the Monarch. The sovereign also receives the resignation of the First Minister and formally dissolves parliament. All Scottish bills are to receive royal assent and Scotland remains an integral part of the UK and the Queen remains the head of state.

The method of electing members also differs from the Westminster system. Each Scottish voter has *two votes* in selecting the composition of the Scottish parliament, one for a constituency member and one for a party list: 73 members are directly elected and the remaining 56 on the additional member system of proportional representation (based on the German model).

The powers that have been devolved to the Scottish parliament are significant. They include:

- health, education and training;
- law, police and the prisons;

- economic development, fisheries and forestry;
- food standards and liquor licensing;
- animal protection and agriculture;
- the environment;
- housing and transport;
- sports, the arts, and tourism;
- and local government.

“Reserved powers” remaining with London include foreign affairs, defence, security, border controls, economic and social policies, transport safety, employment legislation, common markets for UK goods and services, ethical matters such as abortion and human fertility—and *the constitution*.

The latter is especially important should the Scots seek full independence.

The Scottish parliament could debate this issue but could **not** legally proceed **unilaterally** to full independence.

A complex relationship

A secretary of state for Scotland remains in the UK cabinet and is responsible for promoting communication between the two countries and representing Scotland in areas not devolved. In cases of disputes between the two parliaments reference is to be made to the Judicial Committee and the case heard by the law lords.

To facilitate co-ordination a consultative joint ministerial committee, consisting of members from the devolved administrations and the UK government, is to look at issues where there could be potential overlap between devolved and reserved responsibilities.

Relations with Europe remain the responsibility of Westminster, although Scotland has its own representative office in Brussels—as do German Länder and other regions with legislative power in countries such as Spain and Austria.

Scottish ministers and officials can also participate as part of the UK delegation in meetings of the EU’s Council of Ministers. Implementation of EU directives is a shared power between the Scottish minister and the UK minister responsible.

In terms of international relations, treaties concluded by the UK are to be implemented in Scotland.

Wales: language is the main issue

Part of Tony Blair’s devolution package also involved a special Welsh Assembly, albeit without tax-raising powers.

In a referendum held in Wales only just over half voted for this plan with a turnout of 50 per cent. This means only 25.2 % of the actual electorate of Wales supported the proposition. The lukewarm support is perhaps understandable given that the assembly is a consultative, advisory organ only.

Laws for Wales are still made in London although the new assembly has taken over decision-making functions on economic development, agriculture, fisheries and food, industry and training, education, local government, environment, planning, transport, arts and culture, the Welsh language, historic buildings, sport and recreation.

It also has some scope in implementing legislation passed in London which has reserved powers in the fields of foreign affairs, defence, taxation, overall economic policy, social security and broadcasting.

The implementing process works in the following way:

Acts of the British Parliament are broad *framework* laws (primary legislation). An Act is divided into sections containing all the detail, and here the Welsh Assembly, after a debate, can issue its own regulations. For example the Assembly has power to revoke the ban on beef on the bone.

Wales, however, would like to have powers on *primary* legislation, as is the case in Scotland.

The English and Welsh languages have equal status in the assembly. According to the 1991 census, 19 per cent of the population said that they spoke Welsh. There are bilingual signposts and in schools Welsh is taught to most pupils between the ages of five and sixteen.

Language is, in fact, the most important component of Welsh nationalism—unlike Scotland where nationalism is expressed in an institutional form. And unlike Scotland there is no separate legal system in Wales.

Elections to the assembly are held every four years, with 40 members elected by majority vote representing constituencies and another 20 elected by the additional

members system of proportional representation on the basis of party lists.

The devolution experience in both Wales and Scotland has, even at this early stage, changed British political culture significantly. It has brought about not only a greater federal element for the British political system but has also encouraged a greater use of referenda and reforms in the electoral procedures (such as proportional representation).

But devolution is not exactly spreading like wildfire to other parts of the British Isles. Indeed, after the narrow referendum result in Wales, plans for regional assemblies in England itself were postponed.

Half-way federalism?

At present devolution seems to be an experiment running its course through uncharted waters. Some argue it creates more problems than it solves.

One of the problems still unsolved is what people in Britain refer to as the “West Lothian Question”, whereby Scottish members of parliament in Westminster continue to have a say in English affairs while English MPs have no influence in Scotland. William Hague, leader of the Conservative party, has tried to exploit this paradox with talk of “English votes for English laws”.

Much of the impetus behind devolution was *ad hoc* and little thought went into constitutional reform as a whole. What has emerged is a patchwork quilt of lopsided devolved power with little coherence in centre-periphery relations.

Radical reform is perhaps alien to the British who, as constitutional experts have noted, “like to live in a series of half-way houses”.

Britain was never a unitary state in the sense of uniformity, but rather a union state in which traditionally Scottish and Welsh identities were accommodated in the framework of a multi-national state.

For the time being it seems that this haphazard British approach has staved off more radical calls for outright federalism. In the long run, though, it could whet the appetite for more fundamental reform. And that could cause more headaches in London, already distressed at surrendering power upwards to Brussels and down to the regions. 