

## Is Brexit the end of the first of two unions?

*The case for Brexit largely rested on the assumption that the United Kingdom is a unitary nation-state in which the people give effect to their will through a unitary and all-powerful Parliament. In this post, **Michael Keating** (University of Aberdeen) uncovers the shortcomings of such an approach and asks whether Brexit marks the end of the first of two unions?*

Pleading for her withdrawal deal in May 2018, Prime Minister Theresa May declared that Brexit was ‘the clear instruction of the British people in a lawful referendum’. As she had explained in 2017, this was because [‘supranational institutions as strong as those created by the European Union sit very uneasily in relation to our political history and way of life.’](#)

This is the essence of the case for Brexit but it rests on the assumption that the United Kingdom is a unitary nation-state in which the people give effect to their will through a unitary and all-powerful Parliament.

There is, however, another interpretation of the United Kingdom as a union of nations in which the key issues of demos (the people), telos (the aim of the union) and sovereignty have never been resolved. Since devolution to Scotland, Northern Ireland and Wales at the end of the twentieth century, this alternative view has been given institutional form through elected representative institutions. While politicians in London may insist that Westminster has merely lent powers to the periphery and can take it back at any time, others insist that the referendums setting up the devolved bodies were acts of self-determination. Moreover, key elements of the Northern Ireland settlement are embedded in an international agreement.

Seen in this way, the UK constitution, far from being incompatible with the European project, is a rather good fit. The EU is also a plurinational union in which demos, telos and sovereignty are contested and never quite resolved.



1979 Scottish Devolution Referendum. Image by Ninian Reid (CC BY 2.0).

Europe provided a space in which ideas of divided and shared sovereignty, and multiple identities, can thrive. It enabled an internal devolution settlement that was more expansive than would otherwise have been possible by taking key regulatory functions to a higher level. Specifically, it was the EU Internal Market that provided for an internal market within the United Kingdom. The devolved governments were subject to European law in relevant fields but had the same degree of discretion in applying European policy as do member states. It was the EU Internal Market, together with the Good Friday Agreement and the peace process, that allowed the removal of the physical and economic border between the two parts of Ireland.

It is hardly surprising, then, that the Brexit vote was so sharply differentiated across the United Kingdom. Scotland voted by 62 per cent for Remain. This was not primarily because of Scottish nationalism. While the Scottish National Party made independence-in-Europe a central plank in its platform, independence supporters were no more or less likely to vote Remain than were unionists. Support for the EU, rather, has long been associated with support for devolution and the sharing of sovereignty.

Northern Ireland voted by 55 per cent for Remain but with a sharp division between the communities. Almost 90 per cent of nationalists chose Remain but two-thirds of unionists opted for Leave. In England, voting Leave is strongly associated with feeling English rather than British. The idea that 'the British people' voted for Brexit thus begs a lot of questions.

Yet, just as the Brexit negotiations were dominated by the idea of restoring sovereignty, so Brexit has been followed by a campaign to shore up what the UK government still calls the 'unitary state'. The first version of the EU Withdrawal Bill proposed to recentralize all the competences coming back from Europe, even in devolved areas, with the possibility of 'releasing' some of them later. In the face of strong opposition, the UK government reversed tack and only retained power to reserve competences selectively – none have been so far.

The UK Internal Market Act, however, serves the purpose in a different way by providing for mutual recognition of goods and services across the UK. This purportedly replaces the EU Internal Market but is much more centralizing. The exceptions are fewer than in the EU version, the EU principles of subsidiarity and proportionality are absent, and the rules are set unilaterally by the UK government. A provision for the devolved bodies to consent to changes was inserted during the passage of the bill but, if consent is refused it makes no difference. At the same time, the UK government has taken new powers to spend in devolved areas, bypassing the devolved institutions.

Brexit and the subsequent reassertion of the power of the centre have set off a new centrifugal dynamic. Support for independence in Scotland has become associated with support for Europe, while muscular unionism is associated with support for Brexit, polarizing opinion. The net effect is an increase in support for independence to around half the electorate. Brexit has further divided the communities in Northern Ireland and nationalist/ Catholic voters have moved back towards Irish unification. Unionists, for their part, are angry about the imposition of a border in the Irish Sea as part of the Irish Protocol, which they see as a betrayal of assurances given to them. In England, Leave voters have been shown to see the loss of Scotland and Northern Ireland to be a price worth paying to get Brexit done. Even in Wales, there has been a rise in support for independence. All three devolved legislatures voted against the final EU Withdrawal Agreement Bill.

However powerful these centrifugal forces, the United Kingdom is not going to fall apart neatly along national lines. An independent Scotland would undoubtedly gain entry into the EU but the cost would be a hard border with what remained of the UK. Northern Irish unionists are not going to vote for Irish unity and the Irish government itself has shown no enthusiasm whatever for the prospect. English voters may be discontented but there is no mechanism for England to secede from the UK. Brexit has shown that dismantling a complex union is not a simple matter. As the Scottish elections approach and the ambiguities of the Northern Ireland Protocol are exposed, the twin issues of Brexit and the constitution of the United Kingdom are not going away any time soon.

*This post represents the views of the author(s) and not those of the Brexit blog, nor of the LSE.*