

The constitutional settlement of the UK has been thrown into flux – an overarching polity is urgently needed

 [democraticaudit.com /2016/07/01/the-constitutional-settlement-of-the-uk-has-been-thrown-into-flux-an-overarching-polity-is-urgently-needed/](https://democraticaudit.com/2016/07/01/the-constitutional-settlement-of-the-uk-has-been-thrown-into-flux-an-overarching-polity-is-urgently-needed/)

By Democratic Audit UK

2016-7-1

*The Brexit result has revealed the weaknesses of the liberal outlook and highlighted the endurance of identity politics, a pattern that has been seen across the globe in recent years. But **Sean Swan** writes that while global issues are important, we need to focus on the local and recognise the UK state is no longer fit for purpose. He argues that a new constitutional settlement lies in new forms of sovereignty which allow for layered identities.*



Brexit is just part of a larger failing of ‘actually existing’ neoliberal globalisation. So much is obvious and so much will be said by many. What also needs to be clearly pointed out is that Liberalism – the foundational ideology of globalism – has failed. Liberalism views the world in internationalist terms as basically ‘flat’. This flat world is populated by rational self-maximisers whose primary identity is simply as an individual. Identities such as ‘nation’ were dismissed as old fashioned, backwards, reactionary – but yet they endure. This ‘flat world’ model has been becoming ever less representative of reality in recent years. ‘Identity’ has made a resurgence in the Hindu nationalism of the BJP in India, in Putin’s embrace on Orthodox Christianity in Russia, in Erdoğan’s Islamism in Turkey, in Likud’s Zionism in Israel. Even the modern and rational West has not proved immune – think Trump... think Brexit. This should come as no surprise – identities are one of the very few things people have proved willing to die for, and while people may be rational, that is not all they are. Fukuyama’s point about the importance of [thymos](#) and the drive for recognition is worth revisiting on this. That is not to deny the rational, self-defensive and democratic elements of nationalism, arising usually from uneven economic development, but to draw attention to those elements which are identity-based.

But while the global issues are important, it is also necessary to focus on the local and recognise this for what it is – a crisis of the constitutional settlement in these islands. Brexit was the victory of English nationalism, but here are other nationalisms to take into consideration – in their rational and identity forms.

In a cynical sense, the referendum result was ideal for Scottish nationalists. Scotland voted Remain, but finds itself ‘Brexit’ by English and Welsh votes. This, according to First Minister Sturgeon, constitutes a change in material circumstances sufficient to warrant a second independence referendum. And the First Minister is only speaking the plain truth (However it is not certain that such a vote would pass even in post-Brexit Scotland). Scotland is still deeply divided on the question of the Union. It is no great exaggeration to say that there are now two nationalities in

Scotland.

Northern Ireland, like Scotland, voted Remain and finds itself in the same situation. A possible solution for Northern Ireland is a united Ireland. Deputy first Minister Martin McGuinness, has suggested exactly this and has [called for a referendum](#) on a united Ireland. However that option, to put it mildly, would be divisive. And the Deputy First Minister's decision might just have been influenced by the fact that he is a member of Sinn Fein. Once again, we are looking at a situation of two nationalities.

The Republic of Ireland did not have a vote, (it would almost certainly have voted Remain) but would be profoundly affected if Brexit leads to any form of border restrictions between north and south or with Britain.

The UK state is no longer fit for purpose. Brexit has simply brought to a head what was already obvious. This can be seen as a disaster – and mishandled it certainly could become one – or this moment of clarity could be seen as an opportunity. There needs to be a situation in which Scotland and Northern Ireland can remain in the EU. This means some lessening of the link with England – a link which was already less than loved by all in either Scotland or Northern Ireland.

Tom Nair suggested that the British and Irish Council (BIC) could become a successor to the UK. In a similar vein Vernon Bogdanor in *The New British Constitution* stated that the BIC effectively created a confederation in these islands (though only the two sovereign states – the Republic and the UK in total – are fully recognised). The broad contours of a new constitutional settlement lie in that direction. We need to start thinking of new forms of sovereignty, new forms of layered identity. The fact that the nations of these islands are different to, but not foreign to, each other needs to be both recognised and accommodated. The Nordic Council shows how such a model can maintain diversity within unity. For example, in 1985 Denmark was a member of both the European Community and NATO, Norway was a member of NATO but not of the European Community, and Sweden was a member of neither.

There is no obvious reason why forms of sovereignty within such an enhanced BIC would have to be uniform. Some observers of the 2014 Indyref were bemused by the fact that the Yes side wanted to keep the Queen and the pound and did not want a formal passport controlled border between an independent Scotland and rUK. What sort of 'independence' was this? Of course the simple answer was 'the form of independence Scotland wanted'. Sovereignty need no longer be understood as Westphalian sovereignty or nothing. The new postmodern sovereignty could be a more modest thing, something that recognises overlapping and shared identities. Thus a new settlement might see Scotland almost, but not quite, independent, and might see Ireland almost, but not quite united – and with closer links to England and Scotland. And the different component nations could have different relations with the EU – or whatever remainder or successor EU body emerges from all this.

The fact that the entire constitutional settlement has been thrown into flux as a result of this referendum gives an added urgency to developing some form of overarching polity, such as an enhanced BIC, if for no other reason than to reassure those who fear that new (or existing) borders will cut them off from, and make them foreigners in, neighbouring nations with which they identify. Nationalism and identity are powerful forces. Mishandled they can go badly wrong. A safety net would seem to be a wise investment.

Note: this post represents the views of the author and not those of Democratic Audit – Scotland or the LSE. Please read our comments policy before posting.

Sean Swan is a Lecturer in Political Science at Gonzaga University, Washington State, in the USA. He is the author of [Official Irish Republicanism, 1962 to 1972](#).