

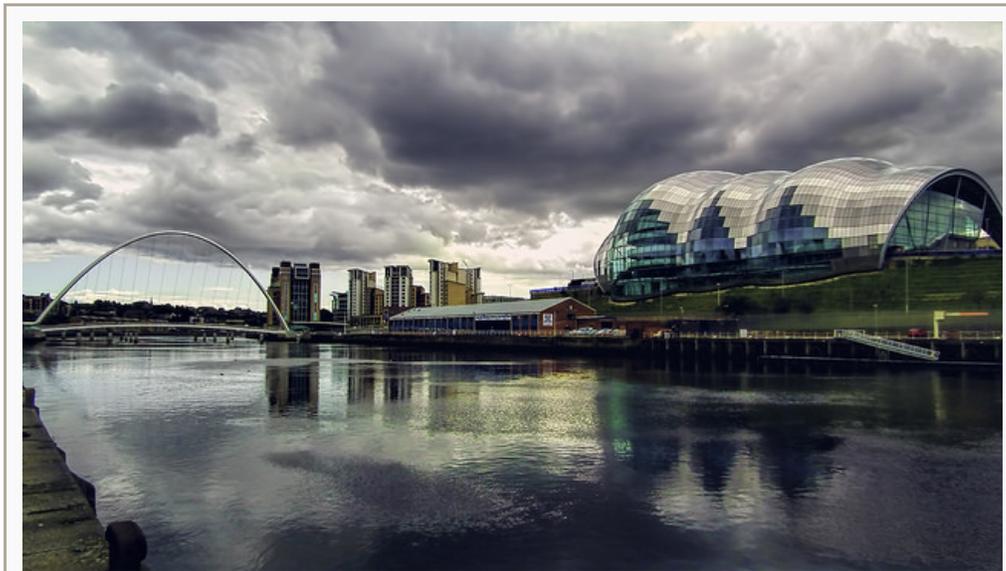
# Federalism provides a desirable path forward for the UK's constitution – and may be the only means of preserving the Union

 [democraticaudit.com/2016/06/10/federalism-provides-a-desirable-path-forward-for-the-uks-constitution-and-may-be-the-only-means-of-preserving-the-union/](https://democraticaudit.com/2016/06/10/federalism-provides-a-desirable-path-forward-for-the-uks-constitution-and-may-be-the-only-means-of-preserving-the-union/)

By Democratic Audit UK

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*The UK is soon to decide whether to maintain its membership of the European Union, with only two years having elapsed since the referendum on Scottish independence. Meanwhile, the government is assisting in the creation of 'city regions' in England. **Andrew Blick** argues that given all of this, the time is right to turn to federalism, with its ability to disperse powers in a codified and consistent manner – for answers.*



*the North East of England rejected a devolved assembly (Credit: [dommylive](#), CC BY 2.0)*

Last week the House of Lords Select Committee on the Constitution published its report [The Union and Devolution](#). Based on a long period of evidence gathering and deliberation, it is a substantial piece of work, with much to commend it. I firmly agree with much of its analysis, in particular the problems it identifies. Where I differ from the Committee is in the possible solutions it identifies – or to be precise one particular option that it closes off.

Since the Labour government elected in 1997 began implementing devolution, it has been a welcome development in the UK constitution. In the areas where it has been introduced, it has brought democratic governance closer to the people. Initially Wales, Scotland, Northern Ireland and Greater London were the beneficiaries. Devolution is now in the process of being introduced, in limited form, across numerous parts of England, the component of the UK that was previously largely excluded from this constitutional development. But there can be such a thing as too much decentralisation, particularly if downward transfers of power are conducted without due regard to the need for cohesion across the whole state, and the retention of certain powers at the core. Devolution could become fragmentation.

The Committee report provides important insight into this problematic aspect of devolution. Noting that 'Every system has limits', it goes on to express regret regarding the prevalence of a 'haphazard approach to the UK's constitution, in which power has been devolved without any counter-balancing steps to protect the Union'. The Committee rightly recognises that some powers must be retained at the centre. With this need in mind, the Committee argues that:

*'The UK Government should identify which functions are essential to the effective functioning of the Union. These are the functions that underpin and maintain the key elements of the Union, which we define...as the economic, social, political, cultural, and security and defence unions.'*

It would indeed be helpful to establish the limits to devolution, and to define clearly those functions which are integral to the functioning of the UK as a whole. But to seek to pursue such a ring-fencing operation as an isolated action would be to continue the piecemeal approach to the UK constitution that – while it brings with it flexibility – has led to the systemic problems that the Committee identifies.

There is another way forward. For nearly two centuries, various observers have called for a more comprehensive rebalancing of the UK into a federal system. Under such an arrangement, the equivalent to devolution would be available equally across all parts of the country, vested in 'states' with their own parliaments and executives. The division of powers between the 'federal' UK level and the 'states' would be set out in a written constitution, probably enforced by the UK Supreme Court. Even the UK Parliament in Westminster – traditionally regarded as 'sovereign' and legally unlimited in its power – would become subject to the constitutional text. The composition and role of the House of Lords as we know it now might well change radically, becoming a 'states' chamber', providing the territorial components of the UK with a direct role in federal decision-making.

Many UK-based theorists have contributed to the development of the concept of federalism, and the UK has historic connections to numerous federal systems internationally, including those of the United States, India, Australia and Germany. Therefore, while federalism has not yet been introduced to the UK, intellectually it is far from alien to the UK, though it poses challenges to concepts that permeated UK constitutional understandings, not least the idea of a 'sovereign' Westminster Parliament. Furthermore, federalism is more than a speculative idea. It is a system successfully introduced across many parts of the globe. Some of the countries that have introduced federalism are those that – like the UK – have a multinational make-up that has proved a source of internal tension, such as Canada, Spain and Belgium.

It is important to avoid presenting federalism as a panacea, and establishing such a system in the UK would amount to a substantial task. Moreover, it would face particular difficulties in the UK context, involving the relative size of England, that accounts for more than 80 per cent of the total UK population. As the Committee states 'One proposed solution, the creation of an English Parliament, would introduce a destabilising asymmetry of power to the Union.' But another option is to incorporate a series of English regions into a UK federation. I set out how this could work in my recent Federal Trust pamphlet, [Federalism: The UK's Future?](#) Through this approach it would be possible to avoid the presence of a single dominant state within the federation. But the Committee concludes that there is a lack of;

*'public or political support at present for the creation of regional assemblies within England which might otherwise provide a viable basis for a federal system. Federalism does not, therefore, provide a solution to the tensions in the UK's territorial constitution.'*

It is true that public enthusiasm for English regional devolution is hard to detect. In 2004, voters in the North East decisively rejected an elected assembly, fatally damaging the plans of the Labour government of the day to roll out regional devolution across England. But the current Conservative government is introducing devolution to groups of local authorities – comprising entities such as Greater Manchester and the West Midlands – that to some extent resemble regions, or at least city-regions. Presently, it is not intended to create new assemblies, with mayors comprising the only directly elected component of the combined authorities. But this model, for all its faults, could

provide an embryo for a more complete form of English devolution and perhaps one day a federal system. As we have seen, the Committee has stated that English regions could 'provide a viable basis for a federal system'. Given this view, and the fact that significant developments potentially in this direction are already underway, it might have been better at least to have left open the federal path for the UK. At some point, it could become the only means of preserving the Union.

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**See: [Federalism: The UK's Future?](#) by Dr. Andrew Blick.**

*Note: This piece represents the views of the author and not those of Democratic Audit or the LSE. Please read our [comments policy](#) before posting.*

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