

Unfinished devolution has created constitutional imbalances in the UK

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By Democratic Audit UK

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*In the [2012 audit](#) of UK democracy, **Stuart Wilks-Heeg**, **Andrew Blick**, and **Stephen Crone** considered how effectively the UK constitution matched the territorial structure of the UK. Following England and Scotland's national football teams facing each other in a rare match at Wembley, this post draws on their analysis to explore how the UK's nations have fared in constitutional reforms of recent years, and how the public's sense of national belonging has been affected.*



Constitutional arrangements for the UK's nations are imbalanced. Credit: Chris Downner (CC BY-SA 2.0)

How much consensus is there on state boundaries and constitutional arrangements?

The UK is a multinational state, comprising at present England, Northern Ireland, Scotland and Wales. Wales was the subject of military conquest by England during the middle ages. England and Wales were united via an act of parliament of 1536, with Wales given representation in the English parliament. England and Scotland were united into Great Britain by the Treaty of Union of 1706, which was given legislative expression by the subsequent Acts of Union passed by the parliaments of both nations, creating a new British parliament. A similar Union between Great Britain and Ireland was effected in 1800, creating the United Kingdom. The UK in effect recognised the independence of southern Ireland with the Anglo-Irish Treaty of 1922; though it did not do so formally until the Ireland Act of 1949. Within the UK, England is clearly dominant. England has the largest population (over 80 per cent of the total) and therefore receives the greatest representation in the House of Commons (532 seats of 649 in the present House). England is also dominant economically, partly because of the size of the English population, but also due to the disproportionate influence of London and South East England on the UK's economic affairs.

Territorial structure of the United Kingdom

Traditionally, the UK has been regarded as a unitary state with a single, central source of supreme legislative authority. This position is associated with [the doctrine of parliamentary sovereignty](#), which holds that parliament is legally unlimited in its legislative powers and cannot be bound, even by a written constitution or itself. But the reality has always been more complex than the label 'unitary' might imply, with, for instance, the existence of different legal systems across the UK for England and Wales; Northern Ireland; and Scotland. It has been suggested that the term 'union state' might be more appropriate than 'unitary state'. Nonetheless, the UK has certainly resembled a unitary state more than a federal state, in which sovereignty is shared between a central federal tier of government and sub-federal 'state' level governments. In this sense, the UK's political system has contrasted markedly with other nation-states with multinational characteristics – such as Belgium, Spain and to some extent Canada – all of which have adopted federal structures.

Adherence to the doctrine of parliamentary sovereignty is a barrier to the establishment of a federal UK, since a federal constitution would imply parliament ceasing to be supreme and, almost certainly, becoming subject to a written constitution, alongside whatever institutions were established at the sub-UK level. Another block on the introduction of a federal-type system is the relative size of England within the UK, which it is often judged might lead to inherent instability, with England – if it were included as a single component in the UK – able to dominate all the others (Turpin and Tomkins, 2011). Yet within the existing, now semi-unitary structure, England is also sometimes perceived as excessively powerful, partially giving rise to some of the problems discussed below. At various points [the idea of a federal UK](#) has been seriously considered, including shortly before the First World War as a means of dealing with tensions over Ireland.

Throughout its history, various forms of resistance to the traditional composition of the UK state have been evident. There has been opposition both to the unitary style of government; and to inclusion within the UK at all. In Ireland there has been a long history of resistance to membership of the UK; and an associated violent struggle between those who wish to secede (and since the 1920s, join with the south, later the Republic) and those who wish to remain part of the UK (known as 'unionists'). This division came to be bound up with a religious split between Roman Catholics (on the republican side) and Protestants (on the unionist side). Nationalist movements also developed in Scotland and Wales during the twentieth century, becoming increasingly political in nature, forming into parties which began to promote the idea of independence from the UK. In Wales, nationalism has had a strong cultural and linguistic dimension, with Welsh being the most widely spoken minority indigenous language in the UK. In Scotland, separatism has been mainly national and cultural in nature. In neither of these countries did religion play the same part that it did in Northern Ireland. Beyond the separatist movements in Scotland and Wales, there was growing support for the view, particularly in Scotland, that a greater degree of autonomy from Westminster/Whitehall was required. This sense was strengthened by the economic and industrial policies pursued by the Conservative governments of 1979-97, which had only limited electoral support in Scotland and Wales, and were perceived as greatly damaging by many within these nations.

The key response to these tendencies in recent times has been the introduction of devolution. Precedent was provided for such an approach by the creation of a devolved assembly for Northern Ireland under the Government of Ireland Act 1920 which operated until it was suspended in 1972. An attempt was made to introduce devolution to Scotland and Wales in the 1970s, but neither of the referendums held in March 1979 delivered sufficient support for devolution to be introduced under the relevant legislation (in Scotland there was a majority for 'yes', but the turnout requirement was not met. In Wales there was an overwhelming 'no'). The Labour government elected in 1997 introduced devolved governance to Northern Ireland, Scotland and Wales, subject to approval from referendums in the areas concerned, which was obtained in each case (there were no turnout requirements.)

With regards to the effectiveness of devolution as a means of addressing the societal divisions inherent to the territorial structure of the UK, it can be noted that, while levels of political violence associated with the status of Northern Ireland have reduced substantially, devolution has certainly not eradicated either secessionism or the desire amongst some for greater autonomy still. Moreover, devolution has more generally served to create imbalances which have, in turn, prompted further disagreement about UK constitutional arrangements – particularly

with regard to the so-called '[West Lothian question](#)' (see below).

Devolution is asymmetrical in two senses. First, where it has been introduced, it has been configured in different ways – thus, the Scottish Parliament has more extensive powers than the Welsh Assembly. Second, devolution has not been introduced at all to England, outside Greater London. Initially the Labour government intended that devolved, directly elected assemblies would be introduced into the regions of England. However, the overwhelming defeat of the proposal for a North East regional assembly at a referendum in November 2004 led to this idea being dropped. Consequently England outside of Greater London has been [left behind by devolution](#).

Various complaints have emanated about this imbalance. The West Lothian question was first raised by Tam Dalyell when MP for West Lothian, when devolution was proposed in the 1970s. It involves the dilemma of how it can be appropriate for Scottish MPs in Westminster to debate and vote on issues which have been devolved to Scotland, when English MPs cannot debate and vote on those same issues in relation to Scotland. Solutions that have been vaunted include the idea of Scottish MPs having restricted involvement in issues devolved to Scotland, but any such proposal would entail complications. The coalition established the non-partisan [McKay Commission](#) committee to investigate possible solutions, which published its report in March 2013. One of the proposals arising from this was for an '[English-only](#)' stage in House of Commons votes.

Another possible solution to the issues raised by the 'West Lothian question', assuming regional devolution within England remains off the agenda, is to introduce an English parliament and executive. There is [some evidence of growing support](#) for this idea in England, but it has yet to be taken up by any of the main three parties in England. Parties running specifically on this issue, notably the English Democrats, have had very limited electoral impact. Furthermore, as noted above, a federal UK within which England was a single component might prove structurally unstable. The precedents for such imbalanced federations – such as the West Indies Federation of the 1950s and 1960s, within which Jamaica was by far the largest nation – may not be encouraging, since they have tended to break up. An English parliament would provide few of the benefits of bringing decision-making closer to people associated with other instances of devolution, because of the sheer size of England. The coalition policy of introducing directly elected mayors to the largest English cities (subject to referendums) may offset the impact of asymmetrical devolution, but only to a limited extent. It should also be noted that, within England, support exists within some areas – [in particular Cornwall](#) – for the introduction of devolved arrangements of some kind.

Further disquiet about constitutional arrangements developing within England involves the idea that Scotland, in particular, is somehow being over-subsidised by English tax payers. A specially formed [House of Lords Committee](#) inquired into the existing method for determining levels of finance within the UK, known as the 'Barnett formula'. It called for a new formula based on needs. We do not take a position on the precise degree of regional and national autonomy that should be provided for within the UK; or ultimately on whether particular components of the UK should or should not secede. However, we support the principle of self-determination; and note that the unitary tradition of the UK has become increasingly strained by attempts to respond to calls for self-government and separatism in parts of the UK. We welcome the introduction of devolution in so far as it helped fulfil some of the democratic aspirations of those in the areas concerned, particularly within the context of the traditionally extreme centralisation of the UK state. Yet it seems that devolution has not fully dealt with all of the problems it sought to address and may have exacerbated some of them. Moreover, the uneven way in which devolution has been introduced has produced new instability within the structure of the UK constitution, involving the position of England, particular outside Greater London, where there is no devolution.

How far do constitutional and political arrangements enable major societal divisions to be moderated or reconciled?

Major societal divisions, particularly those associated with nationality, religion, language, culture and ethnicity, can create problems for the operation of democracy (Dahl, 2000). In a political sense, such divisions may distort the negotiating and decision-making processes that take place under a democratic constitution, particularly where some groups within a society see their demands as 'non-negotiable', making compromise effectively impossible. In the

worst cases, conflicts can arise which lead to a major democratic breakdown and descent into violent conflict. The UK has certainly experienced such problems, in their most extreme form in relation to Northern Ireland, with violent acts involving both sides – and in some cases questionable actions by the security forces – and many civilian casualties. Separatism in Wales has at its fringes been associated to a limited extent with terrorism; but the Welsh and Scottish nationalist movements use democratic political means to advance their respective causes.

National identity

One means of measuring the impact of attempts at reconciling or moderating societal divisions could be the extent to which people regard themselves as belonging to their particular national group, or a larger whole. Table 1 below contains data on this subject applying to Great Britain (that is, excluding Northern Ireland). In England, the percentage of people describing themselves as English rose from 31 per cent in 1992, to 40 per cent in 2005; while those describing themselves as British fell from 63 to 48 per cent over the same period. In Scotland, there has been a far stronger rise in national identity over a longer period. The percentage of people describing themselves as Scottish has grown from 65 per cent in 1974 to 79 per cent in 2005; while the percentage citing a British identity has fallen from 31 per cent in 1974 to 14 per cent in 2005. In Wales, national identity has been more stable, being chosen by 57 per cent in 1979 and 60 per cent in 2003; while those regarding themselves as British fell from 33 per cent and 27 per cent over the same period.

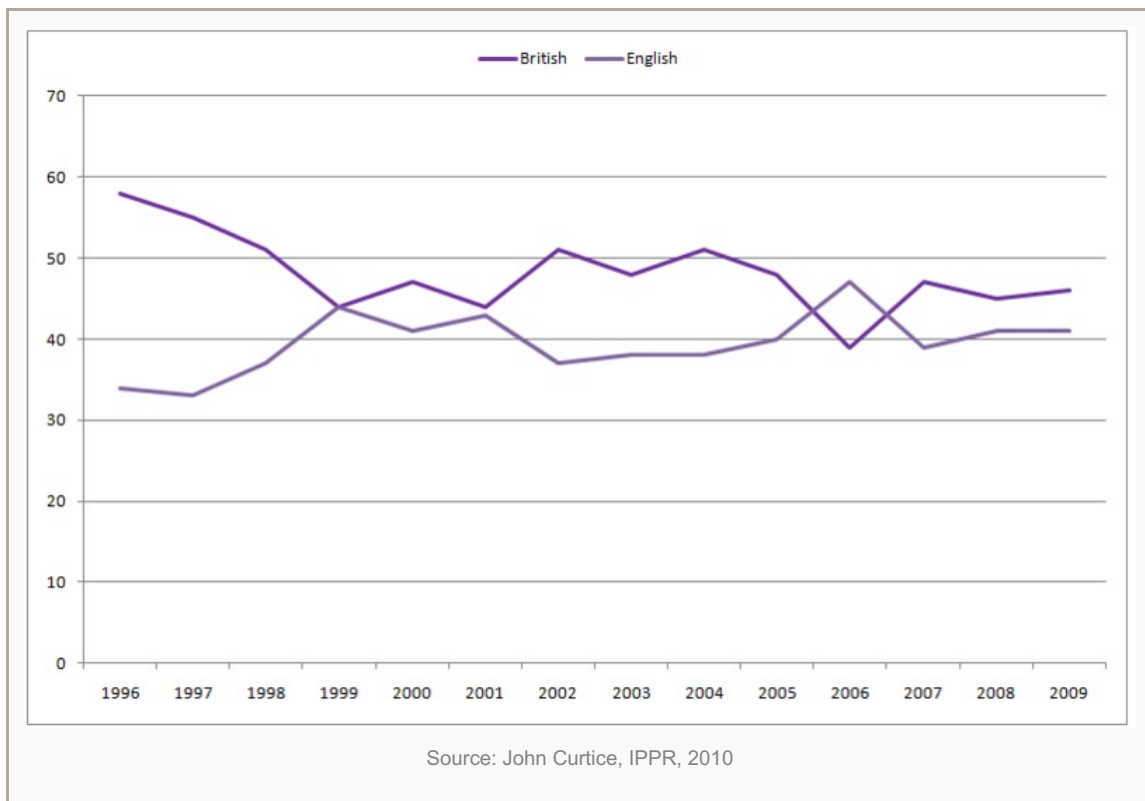
Table 1: Trends in ‘forced choice’ national identity, 1974-2005 (percentage responses)

	1974	1979	1992	1997	1999	2001	2003	2005
Lives in England								
English identity	n/a	n/a	31	34	44	43	38	40
British identity	n/a	n/a	63	59	44	44	48	48
Lives in Scotland								
Scottish identity	65	56	72	72	77	77	72	79
British identity	31	38	25	20	17	16	20	14
Lives in Wales								
Welsh identity	n/a	57	n/a	63	57	57	60	n/a
British identity	n/a	33	n/a	26	31	31	27	n/a

Source: Ian Cruse, House of Lords Library, 2008

However, in none of these cases were the trends in national identity entirely smooth. Table 1 certainly shows, amongst other things, that a British identity declined in significance relative to an English one between 1992 and 2005. Yet Figure 1 below, which provides an annual time-series for national identity among residents of England, shows that this decline became most acute during the second half of the 1990s – just as the impact of devolution was being felt.

Figure 1: Trends in ‘forced choice’ national identity among UK citizens resident in England, 1996-2009 (%)



Analysis of a [Yougov poll](#) from late 2011 showed that in Britain as a whole, only 19 per cent viewed themselves as 'British'; and 63 per cent as 'English'. Devolution has produced a pronounced disequilibrium between those parts of the UK subject to devolution and those that are not (that is England outside Greater London). It is conceivable that attempts to address societal divisions outside England may have helped to encourage a new societal division between England and the rest of the UK. Indeed, the same Yougov poll provided evidence of a distinct political outlook amongst those identifying themselves as 'English' on a divisive constitutional issue. While 58 per cent of the 'English' favoured leaving the European Union (with 26 wishing to remain inside), only 37 per cent of 'British' identifiers wished to leave, with 46 per cent supporting continued membership (the question was predicated on how they would vote in a referendum on the issue). If the English identifiers became a more politically self-aware group, such a trend would pose difficult constitutional and democratic questions for the country as a whole, given their numerical supremacy within the UK.

Devolution has merit as a device for political decentralisation in the over-centralised UK state. Devolution also has potential as a device for reconciling or moderating societal divisions. As an important component in the Northern Ireland peace processes, it can be seen as contributing to some of the progress that has been achieved in securing the peace in Northern Ireland, although it has not been without its difficulties. The impact that has been made in Wales is difficult to assess. There is some evidence that devolution has more support now than it did when first introduced, and that during the devolution era Plaid Cymru has been to some extent integrated into the existing system. In Scotland, it would be difficult to argue that devolution has not advanced the cause of the SNP and helped independence seem a far more realistic proposition, though whether the Scottish public would vote for separation in a referendum remains unclear. It may be that methods designed to deal with divisions have contributed to a new fissure, between those who regard themselves as 'English' and the rest, that could pose enormous problems for the stability of the Union in future. Evidence of significant support for the idea of 'devolution max', not only in Scotland but Wales also, may provide the basis for a short-term solution. Yet, granting further autonomy to Scotland may equally become a staging post towards independence. Meanwhile, a more autonomous Scotland will only serve to make the anomaly of the English case even more apparent.

This post is based on extracts from the 2012 audit of UK democracy. For further discussion see section 1.1.3 'Constitutional and territorial consensus' and section 1.1.4 'The political system and social divisions'.

Stuart Wilks-Heeg, Andrew Blick, and Stephen Crone are the authors of the 2012 Democratic Audit report.

This post is part of Democratic Audit's **Future of the Union** series, which explores the UK's future prospects as a political union and the implications of constitutional and territorial changes. To read more posts in this series [click here](#).

