

Do we need a Global Constitution for a Globalised Age?



A new constitution for the UK must include mechanisms that enable ‘the People’ to interact with the structures of power that govern their lives. Traditional nation state constitutions concentrate almost exclusively on power exercised by the state, within the territory of the state. In an increasingly globalised world, however, constitutions must take account of global power structures and systems of global governance.

A fundamental question that must be addressed by any constitutional convention is how a new constitutional order might redefine the relationship between citizens and global governance. In an increasingly globalised world – a world where power is frequently exercised at international level, across borders, through informal channels – a new constitution for the UK must consider how ‘the People’ might interact with the diverse structures of power that operate beyond the traditional boundaries of the state.



The World Economic Forum at Davos

What has become evident in the recent debates surrounding the Scottish referendum, the European Union and the European Convention on Human Rights is that ‘the People’ of the UK are disenchanted by the contemporary form and substance of the UK constitution. As citizens, we feel increasingly isolated from the structures of power that govern our lives. We have come to realise that decisions made by the Commission in Brussels, at a boardroom in Washington, or at a summit in Davos, have as much – if not more – impact on our lives as decisions made at Westminster, Holyrood, Cardiff or Stormont. Meanwhile, much of popular politics suggests that the restoration of ‘sovereignty’ to the nation state would

afford us greater control over our lives. However, when powerful individuals and global corporations make decisions that impact all of us, it is far from evident that bolstering national sovereignty will enable us to engage with the might of global private power.

Even during the ‘age’ of constitutions, in the late eighteenth and early nineteenth century, the idea that the nation state constitution represented a true picture of the way power worked in the world was somewhat misleading. Power structures and systems of governance have operated above and below the level of the state since time immemorial. During the period of romantic nationalism in the early nineteenth century, it may have been somewhat convenient to understand power structures within the confines of the state and to tie constitutional mechanisms to the state. In the globalised world of the 21st century – as people, power and capital move rapidly across borders – the idea that a constitution, focusing on the state and its interior order, can limit such power is fanciful.

The old techniques of constitutional law are no longer suitable for dealing with the problems posed by global governance structures. The paradigms of national/international, citizen/state and public/private have long ceased to be an adequate representation of the way power works in the world today. Power is no longer exercised in one central location: the state. Rather, it is more often exercised in the interstices of private life; at local, national, international, supranational and global level. Power is

exercised in board rooms, informal meetings, restaurants, on golf courses; ultimately at considerable remove from the formal structures of the state.

Perhaps what 'the People' are frustrated with is not the fact that power is exercised beyond the state. Rather, we resent the fact that we are locked out of global power structures and decision making processes. Traditional constitutional mechanisms render us – 'the People' – impotent in the face of global governance structures. It has become increasingly evident that voting every five years does not amount to a change in the status quo: it re-enforces the system that is already there or replaces it with more of the same. Voting in a national election does not, and cannot, change the global system within which national governments operate.

A new constitution, if it is to break with the status quo, must provide for forms of participation and interaction which allow citizens – 'the People' of the UK – to pose a challenge to global governance and government. Anything less would be little more than a reaffirmation of the status quo. The exercise of 'reconstituting' would be futile: focusing on the written form rather than the substantive provisions of the constitution. Mechanisms of participation must genuinely empower 'the People'. These mechanisms might include forms of global democracy and global constitutionalism which would enable citizens to challenge the power structures that govern their lives. Only when we feel we have a genuine say in how we are governed will our faith in the constitution be restored.



Scottish Parliament Building

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