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This evidence is based on over 25 years' experience, inside and outside of government, of trying to make improvements to the constitution. Because it is careless, and often ignorant, of its constitution, the UK has never managed this well. The key is that oversight of the constitution as a whole and any programme of reform must rest at the centre of government, while individual projects of constitutional change can be for different departments, dependent on the reforms to be made.

The besetting sin of the British Constitution

Britain is obsessed by sovereignty, and the notion of parliamentary sovereignty is translated to mean in practice a constitutional principle of executive dominance. This was tested to destruction over Brexit, when the Supreme Court explained to the then government that the 'Glorious Revolution' made parliament supreme over the executive. But it still suffuses all of Britain's constitutional structures: the expectation of ministers and the public alike is that government, with a Commons majority, should be able to do virtually anything without constraint. So embedded is this idea in our political consciousness that it is unquestioned, until Government encounters some alternative centre of authority - the European Union, the devolved legislatures, or the courts. Hence the sovereignty rhetoric of Brexit, the subsequent undermining of the devolution settlements and the flurry of constitutional litigation.

This obsession has serious social and economic consequences. Britain is by far the most centralised large country in the developed world, even allowing for devolution. Its local government has been systematically disempowered over decades. Decisions which belong in town halls are routinely made badly in Whitehall, which fails to act strategically as it is submerged in detail. An instinctively centralising government machine struggles to deal well with decentralised power in the devolved nations, giving succour to those who claim only breaking up the UK can fix that. Gross over-centralization is also reflected in the gross geographic inequality in the economy. The UK is the most geographically unbalanced large developed economy, so used to the north-south divide that we do not see it as unusual as well as unacceptable. Fixing it is therefore a constitutional as well as an economic project for the present government.

Organising government to address constitutional issues

The first challenge is to acknowledge within government that there are constitutional issues to be addressed: that the UK does actually have a constitution, and bits of it are broken. For many years, a self satisfied tradition, usually blamed on Dicey and Bagehot, assumed the UK's uncodified constitution

had evolved close to perfection, and looked down on unhappy countries which had to write their own¹. Constitutional issues that arose were seen as individual crises - the Irish Question, facing down the Lords in 1906 etc - to which a fix was, more or less successfully, applied.

Consistent with this tradition, the old office of Lord Chancellor, which combined the executive, the judiciary and the legislature in one bewigged person was not so much responsible for the constitution but personified it, and was said to keep government consistent with it, which boiled down to obeying the law and respecting the courts. (Since government could legislate to be able to do more or less anything it wanted, this may be thought not too demanding a task.) This "constitutional duty" was preserved but not defined in legislation in 2005². This duty remains, no doubt severely tested by recent events, but has no relevance to any other constitutional obligations which might apply.

This will not do. Constitutions are about the allocation of power to separate institutions, of which the central executive and the courts are important but not the only parts. Two modern bursts of constitutional reform offer contrasting lessons about how to deal with it. The Blair government's linked reforms on devolution and Human Rights were driven through by effective Cabinet Office constitution secretariat overseen by well ordered cabinet committees. But as the projects were completed or ran into the sand (as for Lords reform) these central organisations withered on the vine. By contrast, the Brown Government's less ambitious constitutional changes were led from the Ministry of Justice, which had absorbed the responsibilities of the Lord Chancellor's department along with many others. This was less successful, in part because it did not have the right UK wide focus, so the largest constitutional issues of that time - territorial constitutional change in response to changes in Scotland in particular - was less strategically managed than it should have been.

The right organisation for now

Obviously, the machinery of government should be designed to face the task in front of it. Today that falls into two main parts:

- 1. The overall vision for the approach to constitutional change*
- 2. The individual tasks and projects which give effect to it.*

The first of these is ultimately the responsibility of the Prime Minister, but can only properly be discharged in the very centre of government, ie the Cabinet Office, because the policy affects all parts of government, and needs to be coherent. In particular it is not appropriate for this to be seen, as once it was, as the task personified in the Lord Chancellor. Despite a title which refers to Great Britain, the Lord Chancellor is a key figure in the legal system of England

¹ Rather as the late Alan Clark MP looked down on those who had bought their own furniture.

²See this Committee's 2014 report

<https://publications.parliament.uk/pa/ld201415/ldselect/ldconst/75/7502.htm>.

and Wales, and the constitutional issues which are faced span the whole UK, and are wider than just the rule of law. (The challenge this government is really addressing is the besetting sin of the UK constitution described above.) At Cabinet level this should fall to the Chancellor of the Duchy of Lancaster (who may not thank me for the suggestion).

The second list of tasks should be allocated across appropriate departments:

- The biggest task is, perhaps unexpectedly, the geographical distribution of executive power across England, which falls to the department for Housing Communities and local government. (At a future stage, the constitutional status of mayors etc in England may require further consideration.)
- Management of the relationships with the three existing devolved administrations falls to the three territorial Secretaries of State (Scotland, Wales and NI)
- Coordination of relationships across the three devolved administrations and with the mayors and others - i.e. support for the Council of the Nations and Regions - appropriately belongs in the Cabinet Office.
- Current legislation on Lords reform, and plans for consultation on further change there, also belongs in the Cabinet Office, as do any proposals for more explicit constitutional principles, such as subsidiarity or economic equality.
- Consideration of issues such as constitutionalising social rights belongs in the Cabinet Office, but working with the DCLG and the territorial Offices to consider how these relate to decentralised power.

Coordination of this work belongs to an appropriate cabinet committee, chaired by a senior minister.

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