

Justice & Home Affairs

- 1. How can the principles of federalism help to reshape the devolution settlement in order to maximise the opportunities it presents?*
- 2. In developing a new approach to devolution, what lessons can be learned from the success of the Welsh Labour Government, and from the devolution of powers to Metro Mayors and combined local authorities?*
- 3. After the pandemic, how can we strengthen the role of Parliament and the courts in holding the government to account?*
- 4. What role could a constitutional convention play in helping to forge a new long-term national consensus about how our country is run?*
- 5. When thinking about reform, which areas of the constitution present the most pressing concerns?*

Devolution and the Constitution after coronavirus

Labour is rightly proud of our record on devolution, delivering a stronger Union by empowering people to have greater control of the issues that most directly affect their lives. However, the Conservative Government has repeatedly undermined this settlement, adopting an antagonistic approach towards the Scottish and Welsh Administrations, playing fast and loose in its role as an honest broker in Northern Ireland, and treating the Devolved Administrations as an afterthought throughout the first phase of Brexit negotiations.

Despite the huge changes delivered by previous Labour governments, the UK remains more centralised than virtually any comparable country. There remains a monopoly of power in Westminster, which desperately needs to be spread across every town, city, region and nation of the United Kingdom. It's clear we need a new constitutional settlement and a large-scale devolution of power and resources to address these regional inequalities.

The UK Government's response to the Covid-19 outbreak has continued to highlight the weaknesses in its approach to devolution. Decisions made at a UK-level have not been communicated to the Devolved Administrations in a timely manner and UK Ministers have described policies as applying to 'the whole country' when they only apply to England.

It has also exposed the fact that Devolved Administrations are not empowered to play the role their electorates might expect in shaping UK strategies. Both in response to the Covid-19 crisis, but also on other issues that have clear impacts

across the country, such as responses to climate change, the industrial strategy and economic policies.

This has undermined efforts to foster the cooperative relationships that maximise the benefits of devolution and, at times, this Westminster centric model of planning has undermined opportunities to maximise the potential of the whole UK.

Our vibrant, innovative and dynamic Local Government partners are desperate to do more to serve their local communities, but are often restricted by outdated, limited sets of powers. Similarly, while individual people, families and community groups have felt empowered to shape the worlds they live in, these changes aren't often replicated in their relationship with government.

Beyond devolution, the UK's wider constitutional settlement was already under considerable strain.

Over the past few years, the Tories have undermined the sovereignty of Parliament and they have attacked other important elements of our system of checks and balances on executive power. They have weakened the independence of the judiciary, falsely accusing judges of politicisation when a decision goes against the Government. Cuts to legal aid and changes to the rules on judicial review in England and Wales have undermined the capacity for individuals to hold the State to account. Now they threaten further unspecified restrictions on judicial review, while the future of the Human Rights Act has once again been called into question. Now the Covid-19 crisis has added further stress to our constitution, with severe limitations on the functioning of Parliament and the courts, alongside the temporary suspension of many of our individual rights, and a substantial empowerment of the State.

The challenges

It is clear that the constitution status quo in the UK is unsustainable. However, delivering significant change will require building a new long-term political and constitutional consensus. This is a significant challenge, but the rewards for the whole of the UK are clear.

When we see such stark differences across our country on all manner of indicators, income inequality, economic investment and even life expectancy, it's clear that change is needed. We also know that across administrations at national, regional and local level there is a need to move power closer to people and for institutions to be better represented at a UK level.

The Covid-19 pandemic has highlighted the need to develop a more cooperative approach to devolution, with a genuine commitment from Westminster to work

collaboratively with the administrations in Scotland, Wales and Northern Ireland in setting and implementing policy.

During the crisis, UK ministers have been confused about the territorial application of some measures and Whitehall departments have at times failed to appreciate the impact of policies on the Devolved Administrations. While being considerate of the pressures that ministers and officials are operating under, this betrays a lack of understanding and respect within government for our country's constitutional set-up which must be addressed.

After Covid-19, to secure the long-term stability of our country, it is imperative that this way of working with the Devolved Administrations is strengthened. All four nations must be enabled to set the direction of UK-wide policy, guided by the principles of federalism, to ensure the most efficient implementation.

The UK response to this crisis, has also seen unprecedented curtailing of civil liberties, that would have been unthinkable six months ago. In the short and medium term, it is vital that with these strong powers, comes strong methods of oversight, to ensure these powers are exercised with restraint and maintain consent.

However, in the longer term, we must ensure that our systems of checks and balances are not permanently eroded. That means, not just restoring, but strengthening the role of Parliament and the courts in protecting our rights and liberties. It also means looking at how best to defend the independence of the judiciary and the civil service against unwarranted and cynical attacks from politicians. Beyond the immediate effects of the coronavirus pandemic, the Conservatives had already planned to conduct a review of the House of Lords, prerogative powers, the role of the courts and the Human Rights Act. In light of their record in government, the Tories cannot be trusted with these crucial areas of our constitution. We must therefore also consider what further reforms are need to ensure our constitutional settlement is fit for the future.

The way forward

Labour believes that we achieve more through the strength of our common endeavour than by acting alone. It is this principle which underlines our commitment to the Union. We also understand that the strength of our Union lies in its diversity. This is why Labour's devolution settlement recognised and celebrated the separate identities in each nation, while providing stability and security for the country as a whole.

In recent years, there has been a serious breakdown in relations between the Devolved Administrations and the UK Government. As we look towards a long term

sustainable constitutional settlements, it is crucial that we build on this progress so that the wider opportunities created by devolution in areas such as tackling climate change, boosting economic development, or protecting key industries can be fully realised.

The Labour Party is already helping to develop ideas and lead some of this thinking. In Wales, the Welsh Labour Government released their 'Reforming Our Union' paper, to consider how to move on thinking about devolution from simply how each nation is governed to how the UK as a whole should be governed, based on a recognition of mutual inter-dependence. And as with the powers that have been transferred to Local Government and Metro Mayors in recent years, the future of devolution must also be guided by the principle that power for making decisions is held at the lowest level necessary so that those who are most affected can have the most influence. Labour believes that our country will require a new constitutional settlement.

A large-scale devolution of power and resources, built on a new long-term political and constitutional consensus.

Keir Starmer MP has set out how this could be built on the principle of federalism, while being clear that change must come through consensus developed through consultation with communities across the UK, which could be facilitated through a 'constitutional convention'.

This could look at how we can best redistribute power, wealth and opportunity from Westminster to the country as a whole. Labour can be proud of the actions we have taken in recent years to defend the sovereignty of Parliament against an executive which held it in contempt. When this crisis abates, it is clear that our efforts must be redoubled in the face of further attempts by the Conservatives to weaken Parliament's ability to hold the Government to account. After coronavirus, Labour must ensure these safeguards are not diminished. In doing so, we must be guided by our commitment to guarantee access to justice for all, not just those who can afford it. We must also act as champions for the independence of the judiciary and defenders of the means by which individuals can assert their rights against the State, such as judicial review and human rights law.