

The Real Crisis is already here



Freedom
It is so important

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Introduction

During the first weeks of Gordon Brown's Premiership some tried to assess the relative success with which he handled his first crises. These included a botched attack at Glasgow Airport and serious flooding due to excessive rainfall in various parts of England. Both of these incidents did not really require crisis management on the part of Gordon Brown since there are agencies equipped to handle such events.

But, the real crisis is already with us and few have noticed...

There is a real current crisis facing Gordon Brown which if he has noticed he has not yet acknowledged. It is however one of the most serious crises to have faced any British Prime Minister since the end of the Second World War. It is a crisis over which he has little control and which will test his true intent as a champion of the people. The crisis has three components which relate to external and internal pressures on our constitution and the need to redesign our governance.

The first item has been welling up for some time, thirty years to be exact, and is coming to a head now. This relates to yet a further potential step in the extension of European power as set out in a re-issue of the draft European Constitution in the form of a Treaty. Here the British government is attempting to push ahead without involving the people of Britain in the decision as to whether or not such changes should be accepted. The second is the increasing enthusiasm on the part of the people of Scotland to discuss their own constitutional settlement as a result of Alex Salmond's launching the paper "Choosing Scotland's Future, A National Conversation", within which are proposed different options, including independence. Caught in between these two very different levels and aspects of constitution is the third component, the British Government's attempt at constitutional change set out in a now almost forgotten document, "The Governance of Britain", of July 2007.

Where are the people?

If one sets these events on a scale of the degree to which the people of the country are involved it is notable that the last one to be launched has already gained an enthusiastic public interest and an increasingly spontaneous involvement. This is the Scottish Executive's "Choosing Scotland's Future, A National Conversation", of August 2007. Although the three political parties, the Conservatives, the Labour party and the Liberal Democrats have attempted to organize their own "Convention" of unionists and seem to have refused to become involved in the public deliberations, it is the voluntary and spontaneous involvement of the people in the "National Conversation" which is gaining the initiative. Independent observers¹ consider the public contributions to the Executive "conversation" website to reflect a higher than average standard of contribution and which is largely constructive and positive. It is probably a mistake to assume that this is all being driven by some minority of Scottish National Party enthusiasts since many of the contributions are from people who have become interested in the topic and are seeking answers to questions.

Keeping the people at the gates

In a marked contrast, on the issue of the European treaty which if accepted would have significant constitutional impacts on Britain, the Government is working hard to avoid public involvement by any means. The government wants to repeat the political party collusion in sustaining what is an undemocratic convention in the handling of European issues by not involving the people. But this will become a difficult accomplishment.

The back door is open

This is because many people in Scotland who are participating in the "National Conversation" activities are moving from general declarations of their support for the initiative, for unionism or independence to asking rational questions to assess feasibilities of options. Namely: what are the advantages of independence or union? and, also, if Scotland were independent how would it fair as a small independent nation in the European Union? The answers to these questions will, amongst other matters, expose some embarrassing truths which have so far not been fully revealed in the country's media. The problem for the Government and, indeed the main political parties, is that the universality of these truths which are relevant to a constitutional settlement for Scotland will also apply to any constitutional settlement for the United Kingdom. Therefore the momentum of the information flow gaining pace under the Scottish initiative is likely to generate a greater clarity on a range of issues which until now have been suppressed by generations of politicians.

Loss of initiative by Government managers

This Scottish initiative is therefore likely to prevent would-be information managers involved in the public reviews of the British Government's own paper "The Governance of Britain" from repackaging the facts according to their preferences and view of the world. The British Government has already lost the initiative on this specific aspect of information flow, consultation and review.

Back to the drafting table?

Indeed, "The Governance of Britain" in the light of the emerging clarity can be seen to be starting off as a flawed document. It is clear that the British dimension cannot be reviewed on an objective basis without taking into account the constitutional options relating to nations operating under devolution as well as the degree to which the European Union is not seeking subsidiarity for Britain but rather a broader gain of European judicial supremacy over the British government and the people of the Isles. The paper "The Governance of Britain" was drafted as if Parliament is central to the defence of individual freedom and as if the European Union does not exist. Certainly this presumption of Parliament being the predominant representation of the free will of the people is that old comforting but false logic put out for years by the main Westminster political parties to tilt control of this chamber in their direction as opposed to the free will of the people². Addressing the relationship between government and Parliament and solving this issue alone requires a whole separate approach to the issue of British constitution³. On the other hand a British constitutional settlement has a primary objective, as far as the people are concerned, of providing a basis for a defence of the freedom of the people of Britain. But this is entirely dependent on the degree to which European decision-making is permitted to influence the degree to which governance reflects the interests of the people primarily through an independent defence of individual freedom founded in an independent appeal structure. Europe has eroded this and intends to remove this ability from all member states. Without elaborating these points any further it is evident that "The Governance of Britain" is a deficient parochial document because it does not take into account the real constitutional national and international environments within which the people of Britain find themselves.

Why Gordon Brown can do little

Gordon Brown cannot do much to prevent this situation from evolving into a party political and constitutional crisis for the United Kingdom. Indeed, the least of his worries are the people of Scotland who will inevitably end up selecting the constitutional settlement which affords stability and the protection of individual freedom now and for future generations. The main problem facing

Britain is one in which the main British political parties have immense difficulty in addressing in an open and honest fashion. It is now known that neither the Conservative party nor the Labour party can full heartedly thrown themselves into a pro- or anti-European commitment. This paradoxical state of affairs is the result of any intense scrutiny of the history and objectives of involvement with Europe risking the exposure of the degree of erosion of the individual freedom and sovereignty of the people of Britain. The principal architects and agents in encouraging and advancing this deplorable state of affairs have been the Conservative and Labour party governments whose tactics involved a denial of participatory decision-making and use of stealth legislation. In the past, attempts by these parties to rationalise their "European" policies have always caused internal party splits with "leaders", so-called, backing down from former positions so as not to risk breaking up their parties and failing at the next general election. But these affairs were essentially a fuss taking place within political parties whose total membership does not surpass 1% of the electorate.

The real current danger is that this no longer involves these little collectives but rather involves an open interaction of many people who are not intellectually fettered by party membership. We have therefore entered an unusual phase where a conversation is taking place and where people are free from the bias of information supplied by political parties. This is progressing towards what will end up as an audit with people trying to understand, "how did we end up in the current predicament?". There is little doubt that the public's conclusions will not only dismay people but could also end up destroying these tiny private organizations. No doubt we might see unapologetic and defiant "realists" supporting all past acts standing in a barren political wasteland being rapidly abandoned by those who have realised the extent of the deception managed by these political parties for the last 30 years.

Muddling through will not work this time

In the past the political parties have had the gaul to muddle their way through their avoidance of involving the people in European decisions. But the situation with respect to Europe today is completely different from our relationship to Europe just 8 years ago. Muddling through will not work any more. Since the collapse of the Santer Commission the European Union has suffered serious setbacks for democracy and freedom directly related to the failure of two European Commissions in managing two European enlargements effectively and according to the rules.

Freedom of governance and the people

Ten of the countries in the last two EU enlargements were formerly totalitarian one-party states where the judiciary, police, the party and intelligence services all worked closely together to fix whatever and whoever they chose. During these enlargement processes the European Commission failed to ensure that the governments and the judiciary were applying European Law before accession was granted as required under the so-called Madrid Conditions for Accession. As a result most of these countries joined the European Union with their governments involved in activities contravening European Law. The judiciary, formerly elements of the system carting people off to the Gulag, has hardly changed its inclinations nor its associations with past colleagues. This maintenance of the status quo was amply facilitated by the European Commission misrepresenting the facts and declaring in their Country Progress Reports that these countries had satisfied the accession conditions.

As a result of this fiasco there are at least nine significant outcomes of this corruption at the highest levels in the European Commission and governments in Europe which affect the social comity, security and individual freedom of the people of Europe. These include:

- Increasing exposure to arbitrary legal decisions
- Increasing risks arising from strategic imports

- No effective protection against extra-judicial execution
- Increasingly compromised European foreign policies
- Increasingly compromised assembly decisions
- No effective defence nor appeals for the citizen
- Declining economic performance
- Direct and indirect funding of political parties
- Increasing tendency to political corruption

Increasing exposure to arbitrary legal decisions

As a direct outcome of the last two enlargements, some 37% of the judiciary in the European Court of Justice (generally concerned with member state issues) and the European Court of the First Instance (generally concerned with issues affecting companies or individuals) are now from the body of judges from these former totalitarian states. These courts have no notion of the concept of decisions being taken "without reasonable doubt" but decisions are taken on the basis of majority voting involving a small panel of judges⁴. Clearly issues coming up which could embarrass politicians will tend to be smothered by judges who are from countries whose politicians are involved in similar abuse. The British concept of the community conscience in the form of a jury to ensure that judges cannot impose arbitrary decisions is alien to Europeans and indeed, excluded from the Corpus Juris, the codified European Law; it simply does not exist. In the run up to these last enlargements it was becoming evident that European Court judgements were becoming more political and tending in the direction of extending the powers of Europe and therefore the European Courts. The situation is rapidly deteriorating because of the risks outlined above and because the former "tiny" totalitarian states are tending to favour one another along judicial lines as they did during the Soviet period.

Increasing risks arising from strategic imports

The fact that these countries are now all "independent" member states of the European Union is entirely misleading. Their political alliances have continued almost without change since before the collapse of the Soviet Regime. The Russian government, in particular, has continued to maintain a very practical and smooth operational relationship with all of these governments in extending a realpolitik devoid of ethics and morals but based on mutual interest of the political parties involved. This is not the popular perception outside East and Central Europe but very much taken for granted within the zone⁵. These working relationships have endured some 60 years and the EU's involvement with these countries has been just 5 years. One direct result has been the exposure of the European Union to the strategic risks associated with increasing reliance of these countries on Russian gas and oil achieved and maintained on the basis of cash diplomacy.

No effective protection against extra-judicial execution

One of the most abusive and potentially dangerous accords supported by the UK government is the European Arrest Warrant. This provides for imprisonment and expatriation of any citizen at the request of a foreign judge presenting prima facie evidence. Today the risk of unpopular individuals being framed through the collusion of judges, police and party officials is real⁶ and in particular in the context of the leaning of parties within East and Central Europe and the cash diplomacy options open to states like Russia. There is no capital punishment in Europe but someone expatriated under the European Arrest Warrant can always be found dead in his police cell.

Increasingly compromised European foreign policies

The tendency of these governments to respond to cash diplomacy was exposed by the White House approaches to them at the beginning of military invasions where a coherent European Union position was thrown into disarray by Central European governments opting to assist the USA ⁷ against the wishes of mainly France and Germany. As long as these political parties and politicians sustain their enthusiastic proclivity for responding to cash diplomacy there can be no serious talk about the European Union ever having a coherent foreign policy or there being a justification for a foreign policy representative.

Increasingly compromised assembly decisions

As long as cash diplomacy remains such a potent device in the hands of the larger European Union member states as well as in the hands of states which are not members of the European Union ⁸, the majority decision rules, including qualified majority voting, the democratic coherence of decisions as reflecting the transparent consent of the people of Europe remains compromised.

No effective defence nor appeals for the citizen

Recent appeals to institutions such as the European Commission concerning human rights abuse have ended up being ignored so as not to embarrass senior Commission officials and governments concerned ⁹. Such decisions have been manipulated by the European Commission and by members of the Petitions Committee of the European Parliament ¹⁰. The processes of complaint and appeal have become thoroughly politicized and therefore are no longer effective as a means of offering an independent defence for European citizens. In similar appeals to the Ombudsman his terms of reference and scope of duties were used as justification for his refusing to take any effective action.

Declining economic performance

Recent economic studies have shown many of these governments proactively segregate minority children and provide no useful education and therefore no professional training. This policy of segregation and denial of education is proactively funded by central governments ¹¹. The practical outcome is an inability of the most rapidly growing segment of the population to contribute effectively and to earn a decent wage through no fault of their own. This has resulted in overall underperformance of the economies concerned to the tune of around Euro 50 billion each year ¹².

Remarkably, a considerable amount of this economic loss, resulting from this failure in human resources planning, is made up in transfers from the European Union Central Budget. On the other hand, the European Commission has been aware of the fact that these losses are a direct outcome of these governments breaking European Law with the collusion of educational institutions and the judiciary. The European Commission is on record as having been specifically advised of the extent of these potential losses arising from such abuse of European Law in 1999, but they never acted.

Direct and indirect funding of political parties

During the initial phases of "change-over" in the pre-accession periods in Central Europe the process of privatization involved the sale of Euro billions in state assets to the private sector. In many countries specific transactions were designed to generate considerable income for entities

set up by the political parties or owned by so-called "young Communists" who today are millionaires and leading politicians in the re-branded democratic parties of Central and Eastern Europe¹³. The process of privatization was assisted by technical support from the EU Phare Programme. Subsequent, post-accession European Union programmes such as the ISPA road construction programme involved construction consortia owned by the political parties doing the majority of the work. In Hungary there was an agreement under which the governing party consortium won 60% of going contracts and the opposition 40%¹⁴.

Increasing tendency to political corruption

The marginalization of the economies resulting from racist policies and the proactive collusion of the European Commission results in a decline in the ability of governance to raise adequate revenues to cover provisions for an aging population¹⁵. The potentially precarious situation of funding for political parties has therefore encouraged "cash diplomacy" where larger European or non-European countries simply negotiate with national governments on the basis of cash transfers to main political parties and key politicians. Political corruption is a specific issue facing all small European member states but in particular amongst the group in question, has never been more rife.

The Challenge for Britain

It is evident that Britain needs to reassess the degree to which European Law and therefore precedence of the European Courts over British Courts should continue. This is because the law has become tainted by a very high risk of arbitrariness arising from a lack of impartiality in European assembly decision-making, including that of European Councils. Such decisions affect the British Government just as they affect British companies and citizens; this continuing state of affairs is unacceptable since such decisions are enforced by the Courts coming under increasing pressure from the same forces who manipulate original decisions.

On the question of this latest cynical conversion of the European Constitution into a Treaty, the fundamental issue is that it will place these corrupt institutions in a more prominent and powerful position and permit yet more arbitrary interference in the affairs of the government and of the people of Britain.

It would appear that we have reached a threshold where the British Government cannot avoid halting this process of a relentless exposure of the integrity of the freedom of the people of Britain to what is fundamentally a corrupt and increasingly politicised European administration and judiciary. Any decisions on this latest European Treaty needs to be put off until such a time that a unilateral and thorough reassessment of the current state of affairs has been undertaken.

It gets worse

A large number, not a majority, of people in Scotland, would like to gain independence for Scotland and they therefore hope for a safe and free future as members of the European Union. This might have been feasible if the last two enlargements of the Union and the mishandling of human rights and judicial corruption had not occurred. As it stands, this wish for a status as a nation to be treated on an equal basis to others within the European Union becomes, in reality, a forlorn hope. This reflects the abject failure of the British political parties in securing a development of the European Union in a pro-democracy and pro-people direction. This failure is related directly to the lack of past involvement of the people of Britain in decisions related to Europe. This has meant that all of the facts were never exposed and few of the real options considered. Political parties acting in their own interests, horse-trading around European Councils, cash diplomacy and sheer corruption have meant that British political parties have

actually created a convention with relation to European decisions of not involving the people of the country.

Gordon Brown at the moment is on record as favouring the continuation of the exclusion of the people from any role in deciding the significance of this latest treaty¹⁶. He justified this on the basis of former treaties not having had referendums. It is exactly this undemocratic convention which has led to the current levels of exposure of the United Kingdom Governments to arbitrary European decisions. It is exactly this undemocratic convention which has led to the current levels of erosion of the defence of individual freedom of the people of Britain. No one who claims to represent the people can justify the current Government's desire to continue this abuse of democracy. The very least that Gordon Brown can do is change his position on this issue; if he does not he is likely to pay dearly.

But all of this has been agreed

Party politicians have had the habit of stating that we cannot undo what has been agreed on Europe. This lame excuse has been trotted out for over 30 years as a basis for bouncing the people into a deeper exposure to European dominance. But all European agreements only remain valid as long as the European Union institutions sustain the conditions for impartial and transparent operations of all matters agreed. Primarily, the European Courts and the judicial processes must remain beyond reproach. European Law needs to be generally applied across the European Union with no significant variation in consistency of compliance. Although this was perhaps never quite the case, now it is certainly not the case. European Law is being ignored by too many governments and in several cases directed against the interests of certain segments of European society, there is open discrimination. The knowing failure of European institutions and courts to tackle this injustice highlights the unacceptable level of institutional discrimination and a situation under which the European social comity is being destroyed by the very institutions which are supposed to protect it. It is the duty of any British Government to secure a consistency of trust by the people by openly defending their interests in Europe. As matters stand, the political parties who have formed British Governments have stood by for too long while member state governments, largely in the form of other self-serving political parties, continue to break the law and European Union institutions flaunt their disregard for their mandates by doing nothing about it.

Treaties set on crumbling foundations

During the last eight years, following the disastrous Santer Commission, the European institutions failed to uphold their mandates of ensuring an ethical management and adherence to required standards of compliance during two major European enlargements. The subsequent changes in political behaviour of certain governments and in the judiciary has compromised the legal foundation of all of the treaties the United Kingdom has with the European Union. This state of affairs is real. It is a unique problem which needs to be solved but we cannot rely on Europe to solve the issue because there is no appeal beyond the European Courts which are a significant part of the problem. Indeed, at the European level no one is competent to investigate these matters. It is therefore the responsibility of the United Kingdom Government to initiate a unilateral review.

A quick fix impossible

The major problem with this state of affairs is that by not enforcing the Madrid Conditions for Accession, the European Commission has permitted the offending political parties to continue to control the governance of countries now accepted as full member states of the European Union. These political parties will, as they have effectively done in the past, deny any such wrongdoing

by misrepresenting the facts. They will stonewall and will continue to compromise European institutions and the judiciary on political grounds and this problem will in fact never be solved completely. This means that the problems reviewed above and the inherent dangers to the people of Britain will not disappear but will linger on for a long time to come, maybe for generations.

The question of political parties

There is no suggestion here that the people of the countries concerned are somehow implicated in the creation of this major European constitutional fiasco. People should enjoy universal rights of freedom on a basis comparable to all others within the Union. It is the political parties who are implicated in the formation of corrupt governments and who have harmed segments of their communities as a direct result of their contravening European Law. These same political parties have an unacceptable level of influence over European institutions and judicial decisions.

Whether one focuses on the political parties in new accession countries or those in Britain one sees a similar inherent behaviour arising from their quest for power. They all represent themselves in assemblies and parliaments and not the people. They enforce legislation on the majority often with less than 20% of the support of their own electorate. Their real voluntary memberships seldom extend beyond 1% of the electorate¹⁷. They tend to favour centralised policies as a means to gain control over central funding through which power is gained over those who use the funds¹⁸. Political parties are very much part if not all of the problem. They are almost incapable of thinking in terms of faithful representation of the people since that would mean responding to people's preferences. Since it is the free expression of the will of the people whereby preferences are formed, the inclination of political parties is to suppress that freedom. Political parties can only operate on the basis of promoting their own preconceived preferences. These are identified by minority factions working within these tiny organizations and presented to the electorate as confusing lists of policies in manifestos supported by incomplete information. Constitutional settlements, whether they be at the European level, at the level of the United Kingdom or at the level of nations with devolution or England, need to review the role and relevance of political parties to the process of elections, formation of governance, legislation and representation of the people. The primary motivation of politics needs to substitute the political party's quest for power by the Briton's quest for freedom.

The people of Britain need to be wary of so-called constitutional settlements at the European, United Kingdom or national levels within the Union, which provide a built-in role and therefore default influence for political parties. At most, political parties should become advocacy organizations like the many NGOs who demonstrate, on a repetitive basis, a far more profound understanding and ability to propose better options, than political parties. Fundamentally constitutional settlements need to satisfy the imperative of promoting and safeguarding individual freedom¹⁹. A secure settlement must provide the confidence that our children and all future generations are safe and free to express preferences which will be responded to by the system of governance. This is only possible if each is provided with the unencumbered means to defend the other from arbitrary decisions by allowing the community conscience in the form of a jury to decide facts and relevance of the law to any particular case. At the moment our political parties fail the people by working to reduce the role of the community conscience while they tolerate the politicization and arbitrariness in legal decisions both within the UK and more fundamentally in Europe to whom they have also given supremacy.

A significant part of constitutional reviews need to focus on the relevance of political parties. It is unacceptable that the representatives of a free people are individuals who are intellectually shackled to tiny private organizations whose voluntary membership does not pass less than 0.5% of the country's electorate. There is a need for the representation of the people of Britain to be more substantive individuals who are faithful and intellectually independent and who carry the message of the people to a Parliament. Any action to protect the interests and freedom of the

people from corrupt forces be they from within the United Kingdom, Europe or anywhere else must be considered.

Because of the almost exclusive management and control of political affairs by political parties, there arise many serious constitutional questions concerning the legitimacy and relevance of powers of political parties in so far as they can be seen to have been proactive in constraining the individual freedom of the people of a country. On this question the issue of members of Parliament voting in line with party dictates is a matter of vital concern. Increasingly people are demanding that MPs should be striving to represent, and voting in line with, the views of their constituents. The outlawing of whips would be a step in the right direction towards securing a Parliament representing the free will of the people²⁰. The medieval, unaccountable, party labyrinths which litter the political landscape of the United Kingdom and the countries of the European Union have not evolved with the aspirations of the people. They all operate on the basis of a secret and illicit influence of unelected party officials over elected officials and consider party power to be more important than responding to people's preferences. Such small, private, unrepresentative, legal entities are able under our current constitutional structures to interfere drastically in the integrity of people's messages and therefore can inhibit the freedom of expression of the people. Any constitutional reviews need to question the utility of political parties and it is not beyond the realms of possibility that a rational constitutional settlement might outlaw most of the activities they participate in as a basis for seeking a freer expression of the people in support of participatory democracy.

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- ¹⁶ Real News, August 2007.
- ¹⁷ as in 2.
- ¹⁸ as in 2.
- ¹⁹ as in 2.
- ²⁰ As proposed in the General Assembly at E-mancipation; One of the supportive conditions of the Minority Principle as set out in item under 2

Updated: 20th August, 2007 (Structure to clarify sense).