



Constitutionalism, Institutionalism, Individualism? The Impact of UK Foreign Policy in the Devolved Nations

The devolution of powers to Scotland, Wales and Northern Ireland has been implemented and extended over the previous two decades, providing the devolved legislatures with competence over a range of policy areas. In a post-Brexit landscape, any future trade deals negotiated by the UK Government are likely to include within their scope issues which are within devolved competence, such as agriculture and fisheries. However, as powers of treaty-making are reserved powers, only the UK Government may negotiate and ratify such treaties. This is evident in the context of human rights and equality mechanisms, such as within the Council of Europe and the UN.

The 2013 Memorandum of Understanding between the UK Government and the Executives of Scotland, Wales and Northern Ireland outlines the principles which apply to different areas of inter-governmental relations, including on international relations. Concordat D, on international relations, states that:

“Under the devolution settlement, the United Kingdom Government is responsible for international relations. The Secretary of State for Foreign and Commonwealth Affairs is responsible for the foreign policy of the United Kingdom, and has overall responsibility for concluding treaties and other international agreements on behalf of the United Kingdom.”

The devolved administrations and their respective legislatures currently have limited involvement in the negotiation of international treaties, and this is the case even when the duty to implement international treaties is devolved, and when devolved interests may diverge, or even clash, with the UK interests.

During the UK-EU withdrawal negotiations, concerns were raised across the devolved institutions as regards their role in the process, and specifically, the limited consultation opportunities in the negotiations, due to the centralisation of the negotiation and subsequent treaty-making process. This raised the wider question of how the devolved institutions may influence or participate in the shaping of foreign policy. The Scottish Government, for example, in evidence to the House of Lords' Constitution Committee's enquiry on Parliamentary Scrutiny of Treaties, outlined:

The MoU and Concordats have often proven not fit for purpose and will not facilitate the consultation, cooperation and scrutiny required in future, as existing international treaties and agreements are reviewed and new multilateral negotiations initiated. There is an urgent need for reform. The result in Scotland of the 2016 referendum, and the subsequent approach of the UK Government to intergovernmental relations and EU Exit negotiations, provides a very clear illustration of the difficulties Scotland faces in playing a full and equal role in influencing major foreign policy decisions where Scotland has a legitimate interest.

Moreover, the withdrawal of the UK from the EU and the repatriation of powers from the EU raised questions as to the impact of UK-EU negotiations upon areas of devolved policy.

Whilst treaty-making continues to be the competency of the UK Government, devolution has resulted in the devolved institutions having responsibility for a range of policy areas. Repatriation of powers from the EU gives rise to new areas in which UK (e.g. trade negotiations) and devolved (e.g. agriculture) competence overlap. The negotiation and delivery of new trade deals can therefore have an impact on areas of devolved policy and more broadly on the powers of the devolved institutions.

Further, queries - and tension - as regards who holds competence in addressing certain policy matters may occur, particularly within a post-Brexit landscape if the devolved institutions reject and refuse to implement treaty measures which the UK Government has negotiated and ratified.

The Agora Democracy and Governance Research Programme is seeking to explore these issues of the development of UK foreign policy and treaty-making, the intersection with devolution and devolved competences, and the role of the devolved governments and institutions in the implementation of treaty measures.

We are now accepting abstracts for our Call for Papers on “Constitutionalism, Institutionalism, Individualism? The Impact of UK Foreign Policy in the Devolved Nations”.

Papers will be prepared for collection in a paper series for publication on Agora’s website in early September 2024, with an online conference to follow.

Abstracts should be between 250-300 words and be submitted to democracy-governance@agorathinktank.org with the email subject line, “DG CFP Submission”.

The deadline for submission is 5pm, 30th June 2024.

Please direct any questions to Leah at democracy-governance@agorathinktank.org.

Who is Agora?

Agora is the UK’s open forum for foreign policy. We are a British foreign policy think tank but, unlike traditional think tanks, we use an open-source approach in our work. We are part of the Open Think Tank Network, with partners in Germany, France, Switzerland, and Austria.

Our think tank launched in London in November 2017. Agora’s leadership team and membership come from a diverse range of professional, academic, and personal backgrounds. What brings us together is a desire to make a meaningful contribution to discussions of international affairs.

Agora publishes work relating to UK foreign policy and international affairs. We publish work in the following formats:

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Shorter opinion pieces, in a more journalistic tone, that convey a clear idea and often respond to current affairs.

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Before sending us submissions please familiarise yourself with our content guidelines, which will tell you what we publish and give you an overview of our editorial process.

- **How UK foreign policy impacts different regions/devolved nations, and whether/how do different regions/nations within the UK perceive/shape/influence UK foreign policy made in Westminster.**