The Labour Government and British Constitutional Reform

By

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European Parliaments: Rediscovering, Refocusing, or Reinventing?

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Please Note

This paper sketches ideas that are in a very early stage of development. It is therefore best regarded as ‘work at progress’ rather than a polished draft.

Abstract

The Labour government’s constitutional reforms are not disparate, but adhere to the purpose of empowering citizens and modernising the state. The programme represents a vision of the state restructured around concepts of trust, partnership, and inclusion. Three broad elements are identifiable in the reform programme. First, it develops a concept of empowered citizenship by enhancing individuals’ rights and representation. Second, it develops a notion of participatory democracy by bringing decision-making closer to the people, both geographically and politically. Third, it develops the democratic credentials of British governance by making institutions and procedures more accountable, representative and fair. Underpinning these themes is a core of trust. The dominant vision conceptualises governance as a partnership between empowered citizens and a modernised state based on relations of trust.
The Labour Government and British Constitutional Reform

The Labour Party’s victory in the 1997 British general election heralded the beginning of an ambitious programme of constitutional reform. Labour’s manifesto included commitments to: enact Scottish and Welsh devolution; reform the House of Lords; introduce Freedom of Information legislation; establish an elected mayor and strategic authority for London; develop English regional governance; incorporate into British law the European Convention on Human Rights; broaden and deepen European integration; introduce proportional representation for elections to the European Parliament; and hold a referendum on the voting system for the British Parliament. These proposals address constitutional dynamics experienced under successive Conservative administrations that centralised power, made decision-making unaccountable, and virtually reduced citizen participation to a single act of voting. Although it is too early to evaluate how successful the Labour government has been in reforming the British state, we can explore the content and rationale of New Labour’s vision of the British state and also indicate how some government policies reflect this vision.

Historical Context

Previous Labour governments have attempted to reform the British state. Indeed, despite being associated with the ‘New’ Labour project, little of the government’s constitutional programme is especially novel. The 1974-79 Labour government, for example, planned devolution to Scotland and Wales, but the proposals were defeated in referenda. Other proposals, such as Freedom of
Information, English regional governance, and House of Lords reform, were suggested in the 1960s by Harold Wilson’s Labour government. Scholars highlight four main reasons for the failure of Labour’s previous attempts at constitutional reform. For a start, public support was weak, particularly for devolution. For instance, although the Scottish public generally favoured some form of home rule they failed adequately to support the 1979 devolution proposals.\(^1\) Second, constitutional proposals often were motivated by political expediency rather than by a reforming zeal. In the 1970s, for example, Scottish devolution policies were imposed on the Party by a London leadership worried by electoral challenges posed by the Scottish National Party.\(^2\) Third, constitutional reform was a low priority. 1970s Britain was afflicted by major economic upheavals so that successive governments were preoccupied by problems like currency crises, spiralling inflation, rising unemployment, and industrial unrest. Finally, some elements of constitutional reform were incompatible with Labour’s traditional policies. Labour historically advocated centralist social and economic policies that contradicted the decentralising imperatives exhibited by devolutionism and regionalism.\(^3\)

New Labour’s constitutional programme seems to have a greater chance of success. Public support is manifest, both in an overwhelming mandate at Westminster and in successful referenda in Scotland, Wales, and London. Strong political will is apparent, as evidenced by the fact that New Labour’s proposals draw significantly on the deep personal convictions of senior Party figures, including Tony Blair, the Prime Minister, Jack Straw, the Home Minister, and Donald Dewar, the Secretary of State for Scotland. In opposition, moreover, constitutional issues were prominent in Party literature and campaigning, and Blair pledged to fight the general election on constitutional issues.\(^4\) In office, the Labour government has progressed rapidly with
regard to constitutional policies, particularly, for example, in developing devolution legislation. Finally, New Labour’s constitutional proposals form a largely unified programme of reform. This programme, moreover, is more compatible with the government’s broader policy agenda than previously was the case.

The government’s various constitutional proposals are not disparate. Rather, they contribute, in a number of different ways, to a common objective, namely, New Labour’s vision of British state governance. A Home Office document outlines this vision: ‘[the government’s] overall constitutional reform programme [is] designed to deliver a new type of governance, one that [is] transparent, and responsive, and one that [treats] the electorate as citizens rather than subjects’.5 This new type of governance will, New Labour tells us, overcome feelings of alienation, remoteness, and disillusionment that British people feel towards political institutions and processes.6 Three main ideas inform this new type of governance. First, New Labour restructures the state to decentralise institutions and procedures and make them more representative and accountable. Blair tells us, for example, that constitutional reform ‘take[s] decision-making closer to the people’, and ‘improve[s] the democratic credentials of Westminster’.7 Second, New Labour restructures the idea of citizenship to empower individuals by, for example, enhancing rights, improving representation, and promoting participation in political procedures. Blair argues that constitutional reform ‘strengthen[s] the rights . . . of citizens’.8 Finally, New Labour restructures the relationship between the state and citizens to promote trust. Mandelson and Liddle, for example, talk of a ‘relationship between the citizen and the state’ based on ‘trust and partnership’.9

Reforming the state and empowering citizens develops New Labour’s notion of participatory citizenship that encourages individuals and institutions to co-operate
in governance. The dominant vision is inclusiveness: New Labour seeks to overcome political exclusion whereby individuals and groups do not enjoy access to or representation in governance procedures. By taking into account the interests and aspirations of all sections of society New Labour believes that inclusive politics delivers better governance. Central to the idea of political inclusiveness is a notion of trust. New Labour trusts British nations, regions, and local communities to exercise considerable self-governance, and empowers them to do so. New Labour also trusts and empowers individuals to participate in this governance. Blair defines trust as ‘the recognition of a mutual purpose for which we work together and in which we all benefit’. This notion of trust implies that people are not individualistic actors, but are interdependent and achieve more by co-operating than by competing. Good governance, therefore, is best achieved through co-operative relations based on trust. We should remember, of course, that concepts like democracy, representation, empowerment, and trust are complex and have contested meanings. The aim here is not to engage in debates concerning these concepts but, rather, to explore how New Labour deploys them in developing constitutional reforms. This paper is largely descriptive: we examine the main elements of constitutional reform, summarising their historical development and reflecting on the ideas that inform them. In so doing we attempt to unpack New Labour’s vision of a restructured British state.

Scottish and Welsh Devolution

Devolution to a Scottish Parliament and a Welsh Assembly are at the forefront of the Labour government’s constitutional programme. The Referendum (Scotland and Wales) Bill, 1997, was the first piece of legislation introduced following Labour’s return to office. Devolutionary imperatives have appeared sporadically throughout
Labour’s history. In 1888 Keir Hardie, a founding member of the Labour Party in Scotland, proposed a Scottish Parliament in his campaign for the Mid-Lanark by-election. In 1924 a Scottish Home Rule Bill was unsuccessfully introduced under the first Labour government. Not until the late 1960s, however, did devolution achieve political salience. The Scottish National Party’s electoral challenge persuaded Labour to adopt devolution policies. In 1969 Harold Wilson, the Labour Prime Minister, established a Royal Commission on the Constitution that ultimately recommended devolution. In 1979 the Labour government staged referenda on devolution to Scotland and Wales, but both failed. From 1989 Labour participated in the Scottish Constitutional Convention, which produced detailed devolution proposals that were adopted as Party policy. Welsh devolution proposals emerged from a limited consultation exercise and were adopted as Party policy in 1995. In 1996 Labour promised referenda on the creation of a Scottish Parliament and a Welsh Assembly. In the referenda, held in September 1997, the Scottish and Welsh public voted in favour of devolution.

The Scottish Parliament comprises 129 members elected by an additional-member system. Seventy-three constituency members are elected by the first-past-the-post system. The remaining fifty-six are elected on a proportional basis from party lists. The Parliament receives income from central government, and further income can be raised through formal tax-varying powers within parameters of three pence in the pound. The Scottish Parliament has primary legislative power over extensive policy areas including health, education, training, local government, transport, housing, economic development, law and order, the environment, agriculture, fisheries, sport, and the arts. The Welsh Assembly is also elected on an additional-member basis. Forty constituency members are elected by first-past-the-post and a
further twenty from party lists. The Welsh Assembly assumes responsibility for existing Welsh Office powers, including allocation of a £7 billion annual budget. The Welsh Assembly has neither tax-raising powers nor primary legislative functions.

New Labour’s devolution plans are informed primarily by ideas of accountability and representation. First, New Labour claims that existing state structures are unaccountable. The Scottish and Welsh Offices currently exercise enormous powers without being fully accountable to the people thereby affected. Donald Dewar criticises ‘unaccountable decision-making’, and arrangements ‘by which executive power exercised in Scotland could not be held to account there’. Devolution challenges this because decisions made by democratically elected assemblies are more publicly accountable than those made behind the closed doors of Whitehall. Devolution, Dewar tells us, ‘strengthen[s] democratic control and make[s] government more accountable to the people’. Second, New Labour alleges that existing state institutions are unrepresentative, because decisions affecting Scotland and Wales are made by a government that those nations did not elect. During the 1980s, for example, Labour consistently won large majorities in Scotland and Wales but, largely as a result of English votes, the Conservatives held office at Westminster. Scotland and Wales were governed by a party that effectively had no mandate in those nations. Devolution supposedly makes state institutions more representative, because power is exercised by people directly mandated by Scots and Welsh people.

Finally, New Labour’s devolution plans constitute a critical response to Conservative policies of centralisation and quangoisation. Successive Conservative administrations concentrated power at Westminster and Whitehall. Blair, for example, describes the Scottish Office as ‘Westminster-controlled and Westminster-orientated’. Devolution decentralises state institutions by transferring power away
from Westminster, thus bringing power closer, geographically at least, to citizens. This, New Labour argues, makes decision-making more responsive to regional interests, and addresses feelings of remoteness, alienation, and powerlessness that people feel towards existing political institutions. Dewar, for example, argues that decentralisation gives people a sense of ownership and involvement in political debate.\textsuperscript{15} New Labour criticises quangos because they institutionalise a democratic deficit. This criticism revisits the notion of accountability. Quangos comprise unelected government appointees who exercise widespread decision-making powers: they therefore constitute an unaccountable tier of governance. Devolution challenges quangoisation by transferring decision-making powers from unelected bodies to elected assemblies. The Welsh Assembly, for example, is ‘specifically empowered to reform and democratise the quango state’.\textsuperscript{16} Two dynamics emerge from devolution policies. The first decentralises state institutions and opens them up in terms of accessible and accountable procedures. The second offers citizens a sense of political inclusion through access, proximity, and greater representation. These dynamics encourage citizens to participate with state institutions in governance.

**Electoral Reform**

As we have seen, proportional representation is included in the Labour government’s devolution plans for Scotland and Wales. A proportional system also is proposed for European elections, and a referendum on the voting system for general elections is promised.\textsuperscript{17} Labour historically favoured the existing ‘single-member simple-plurality’ or ‘first-past-the-post’ system. An ‘alternative vote’ system was approved by the Commons under a Labour government in 1931, but the House of Lords rejected it. Throughout the 1980s and 1990s, however, Labour’s support for
electoral reform strengthened. Membership of the Scottish Constitutional Convention committed Labour to some form of proportional representation. One commentator, however, describes the Party’s conversion as ‘hesitant, lukewarm and mixed’. In 1990 groups within the Party, such as the Labour Campaign for Electoral Reform, forced a review of electoral systems, chaired by Professor, now Lord, Raymond Plant. The leadership subsequently approved an additional-member system for a Scottish Parliament and proportional representation for European elections. Plant’s further recommendation of a ‘supplementary vote’ system for the House of Commons was rejected. In 1993 Blair’s predecessor as Labour leader, John Smith, who personally favoured first-past-the-post, committed the Party to a referendum on voting reform for the House of Commons. Blair, who also favours the existing system, has retained this commitment.

Although Labour is divided on electoral reform for the Commons, and despite Blair’s referendum commitment, the leadership largely opposes proportionality. Blair, for example, insists he is ‘yet to be convinced’ about proportionality because general elections must produce ‘strong government, which is not at the behest of small minorities’. Peter Mandelson, a chief architect of New Labour, and Roger Liddle, a Labour MP, also argue that general elections should produce strong government, but add that electoral systems should be ‘as fair as possible’. This represents a debate between notions of fair representation and strong government. First-past-the-post generally produces strong, single-party government that excludes minority parties. Proportional systems appeal to procedural fairness and reward minority parties with representation, often at the expense of single-party government. Given the Labour leadership’s emphasis on strong government, the promised referendum seems to be about legitimising the current system rather than advancing electoral reform. For
instance, Jack Straw, the Home Secretary, opposes proportional representation but is concerned about ‘the continuing question of whether [first-past-the-post] has been legitimised’. 23

Nevertheless, the government remains committed to proportional systems for Scottish, Welsh and European elections. 24 One reason for this is New Labour’s desire to make state institutions more representative of individuals and parties. Under a proportional system those parties penalised by first-past-the-post will gain more representation. Moreover, Labour’s objective of greater female and minority group participation in governance is an important factor. 25 Labour wanted to include a gender proportionality requirement in elections to the Scottish Parliament. Although this failed, the additional-member system facilitates the election of appropriate proportions of women and minority groups via party lists. The same applies to European elections for which Labour proposes a proportional system based purely on ‘closed’ party lists. This is controversial because whereas ‘open’ lists facilitate choice between candidates, Labour’s closed list system offers only party choice, thereby denying voters the right to select their preferred candidate. Two outspoken Labour MEPs, Ken Coates and Hugh Kerr, left the Party over this issue, and in November 1998 the House of Lords defeated it five times. Nevertheless, Labour retains a commitment to proportional representation for European elections.

Closely related, New Labour believes electoral reform makes state institutions fairer. We have seen that proportional systems appeal to a rationale of fairness. The notion of fairness figures most prominently in New Labour’s concept of social justice, but clearly it extends to constitutional matters. Peter Mandelson, for example, argues that people participate more in democratic processes if they feel the system is fair. 26 The notion of fairness here certainly refers to the disproportional outcomes for parties
produced by first-past-the-post, but it also contains a reference to individual voters. Mandelson suggests it is unfair that under first-past-the-post, because only votes for the winning candidate ultimately count, many individuals’ votes are in some sense ‘wasted’. The dominant concepts here are fair institutions and citizen participation. By offering greater representation and fairer outcomes, and by making more votes count, New Labour believes proportional systems encourage more people to participate in the electoral functions of governance.

House of Lords

Labour’s 1997 manifesto pledges to make the House of Lords ‘more democratic and representative’. Arguably, this is Labour’s most important constitutional proposal because it seeks to eradicate allegedly undemocratic principles, entrenched elitism, and hereditary privilege from the heart of British governance. Labour historically has advocated changes to the upper chamber. During the 1960s, for example, Wilson’s Labour government unsuccessfully tried to reform the House of Lords. Throughout the 1980s and 1990s Labour proposed to replace the Lords with an elected second chamber reflecting regional and national interests. Roy Hattersley, a former Labour deputy leader and himself a Labour life peer, consistently has argued for House of Lords reform: ‘The House of Lords should be abolished or totally replaced’.

New Labour is cautious about firm commitments to create an elected upper chamber. Instead, the government advocates a two-stage reform of the Lords. Stage one abolishes speaking and voting rights for (most) hereditary peers. Thereafter, the government proposes to review life peerage appointments, and a Royal Commission will explore further reform options. This two-stage reform has been criticised.
Abolishing hereditary voting rights whilst retaining the arrangement of government-appointed life peers creates, critics assert, Britain’s biggest and most powerful quango.\(^{31}\) Jack Straw accepts the charge of quangocracy, but contends that it is ‘better to have people appointed for their own merit rather than the alleged merit of their forebears’.\(^{32}\) Blair also argues that appointed meritocracy is fairer than hereditary privilege.\(^{33}\) Although the stage-two reforms are open to consultation, senior New Labour figures prefer an elected body. Blair, for example, tells us that ‘[Labour has] always favoured an elected chamber’.\(^{34}\) Mandelson and Liddle endorse an ‘elected element’ that might reflect regional interests, and also suggest including elected MEPs.\(^{35}\)

New Labour’s arguments for House of Lords reform derive mainly from notions of fairness and democracy. New Labour claims that legislative power based on birth, rather than merit or election, is undemocratic, wrong in principle, constitutionally unfair, and blatantly absurd.\(^{36}\) Abolishing hereditary voting rights, New Labour argues, removes an undemocratic institution based on unfair privilege and, therefore, improves the fairness and democratic credentials of Westminster. Moreover, reforming the Lords supposedly removes political bias from Parliament. Conservative hereditary peers currently outnumber their Labour and Liberal Democrat counterparts. Consequently, the unelected chamber is able to defeat the elected Labour government. In Blair’s words, this arrangement ‘is plainly and incontrovertibly politically biased’ and ‘not democracy’.\(^{37}\) Finally, an elected upper chamber allegedly makes government more accountable, because both Houses of Parliament are directly accountable to the electorate. The dominant concept here is one of democratic institutions and procedures, unpacked largely in terms of fairness
and accountability. Clearly New Labour’s concept of democracy does not accommodate unelected institutions and unaccountable decision-making.

**English Regions**

New Labour proposes devolution to some form of English regional government and a London authority and mayor. Labour did advocate English regional governance in the past. Wilson’s government, for example, created regional economic planning councils, but they lacked support and effectiveness and were abolished by Margaret Thatcher’s administration. In the 1970s Labour proposed elected English regional governance, but poor public support and constitutional wrangles over Scottish and Welsh devolution scuppered the plans. The idea appeared again during the 1980s, and a 1989 policy document committed Labour to ‘regionalising central government’ by creating elected assemblies in England. The Party’s 1992 manifesto promised a Greater London Authority and a tier of English regional government that could evolve into elected assemblies. New Labour largely retains these ideas, as indicated by a 1995 document outlining a London authority and regional chambers in each of the ten integrated regional office areas (IROs) created by John Major’s Conservative administration. Although the government seems reluctant to legislate for regional chambers, plans for a London mayor and assembly are well advanced. The London electorate approved the government’s proposals in a referendum.

The proposed London authority comprises a mayor and assembly, both elected. The mayor is elected by a supplementary vote system, and is responsible for policy areas such as transport, economic development, law and order, the environment, and emergency services. The twenty-five assembly members, elected by
an additional-member system, scrutinise the mayor’s activities and serve on various London-wide bodies. New Labour’s proposals for English regional governance involve a two-stage process. Stage one creates chambers comprised of nominated local authority councillors in each IRO region. Their primary function is coordination of public policy at a regional level, covering, for example, economic development, European policy, transport, planning, the environment, health, tourism, arts, and leisure. Additional powers include scrutiny of IROs, quangos, and other government agencies. Stage two creates directly elected regional assemblies. This will occur only if relevant authorities agree, and, importantly, if public support is clearly demonstrated, probably in a regional referendum.

New Labour argues that elected regional governance challenges a democratic deficit created by bottom-up and top-down regional dynamics. Bottom-up local authority regionalism means that local authorities increasingly co-ordinate public policy on a regional basis. European Union structural funds policy, which encourages partnerships with regional governments, contributes to this. Labour recognises that ‘every English region now has some form of local authority coordinating body’. Typical examples include the North of England Assembly and the North West Regional Association. Indeed, Jack Straw acknowledges the ‘obvious demand’ for regional government in the North-East and North-West. Top-down executive regionalism includes a largely unaccountable tier of government-appointed governance. During the 1990s, for example, many quangos, Civil Service agencies, and some government departments underwent significant regional restructuring. Labour believes these regional bodies constitute a democratic deficit because members are unelected appointees who lack public accountability. Elected institutions supposedly make regional governance structures more accountable.
Transferring power from quangos to elected institutions, New Labour argues, improves the democratic credentials of English governance. Moreover, devolving power to London and the regions decentralises state institutions. Power is removed from the centre and instead implemented in the regions affected, thereby making decision-making more responsive and giving people a sense of ownership and involvement in political processes. Finally, New Labour argues that elected assemblies make regional decision-making more representative: decision-makers more accurately reflect and share regional interests and aspirations. The ideas informing English regional governance reforms mirror those informing Scottish and Welsh devolution. Dynamics of institutional and procedural openness and citizen inclusion combine to promote New Labour’s co-operative approach to governance.

**European Convention on Human Rights**

The Labour government has incorporated into UK law the European Convention on Human Rights. This constitutes the first explicit Bill of Rights legally enforceable in British courts. In 1950, under Clement Atlee’s Labour government, Britain was among the first signatories of the Convention, and in 1951 Britain was first to ratify it. Although Britain was answerable to violations of the Convention, it was never fully incorporated into UK law. Indeed, William Jowett, a former Labour Lord Chancellor, reportedly dismissed the Convention as a ‘half-baked scheme to be administered by some unknown court’. During the 1970s James Callaghan’s Labour government discussed full incorporation of the Convention, but cabinet was divided and the idea was blocked. Proposals to incorporate the Convention were contained in a Human Rights Bill presented to Parliament in October 1997. In October 1998 the

The Convention guarantees a number of basic human rights. It covers the right to life; protection from torture, or inhuman or degrading treatment or punishment; slavery and forced labour; liberty and security of person; fair trial; respect for private and family life, home and correspondence; freedom of thought, conscience and religion; freedom of expression; freedom of peaceful assembly and freedom of association, including the right to join a trade union; the right to marry and found a family; and discrimination in the enjoyment of these rights and freedoms. Additional protocols protect property rights, education rights, and the right to free elections. These rights are upheld by the European Court of Human Rights in Strasbourg.

Three main ideas inform New Labour’s argument for incorporating the Convention. For a start, incorporating the Convention supposedly empowers citizens by making it quicker, easier, and cheaper to legally challenge human rights violations. The previous arrangements made it difficult for people to pursue their rights. A government White Paper criticises the ‘delays and expense which . . . may altogether deter people from pursuing their rights’.49 Most individuals simply cannot commit the time, effort, and money required to fight a case in the European Court of Human Rights. For example, securing a hearing in Strasbourg takes an average of five years and costs thirty thousand pounds.50 New Labour believes it is wrong that such factors prevent people from upholding their rights: ‘It is plainly unsatisfactory that someone should be a victim of a breach of the Convention . . . yet cannot bring any case at all in the British courts’.51 Second, New Labour contends that incorporating the Convention overcomes a perceived alienation or remoteness individuals feel towards
their rights. Mandelson and Liddle, for example, criticise the previous arrangements whereby rights were secured only in ‘a remote, even alien, way’, and a government document suggests that British people did not regard the Convention rights to be British rights.\(^{52}\) Blair argues that incorporating the Convention will confirm that human rights are ‘not some foreign import’ but are fully recognised by the British state.\(^{53}\) Finally, New Labour claims that incorporating the Convention makes state institutions more accountable. Violations of the Convention are made against the citizen by the state. A successful appeal to the Convention holds the state accountable for human rights violations. Britain, moreover, has the worst recent record in this respect.\(^{54}\) Previous arrangements may, New Labour tells us, have deterred people from bringing cases which otherwise would incur judgements. Violations could occur with little chance of the government being brought to account. Incorporating the Convention supposedly makes the government more susceptible to being brought to account. The primary dynamic here is political inclusion through citizen empowerment. Individuals who enjoy few recognisable or enforceable political rights are unlikely to feel included in political procedures in the manner that New Labour desires.

**Freedom of Information**

Labour’s 1997 manifesto proposes a Freedom of Information Act that for the first time gives people a legal right of access to official information. Labour consistently has favoured Freedom of Information legislation. The Party’s 1983 manifesto pledged to ‘introduce a Freedom of Information Bill’.\(^{55}\) In 1989 an important policy document stated: ‘We will introduce a Freedom of Information Act . . . [to] establish in law “the right to know”’, and the 1992 manifesto promised: ‘we
will start in our first parliamentary session with a Freedom of Information Act’.


The proposed Freedom of Information Act applies at all levels throughout the public sector. It covers government departments; nationalised industries; quangos; the National Health Service; courts and tribunals; the police and police authorities; the armed forces; local authorities; schools, colleges and universities; public service broadcasters; privatised utilities; and, private organisations involved in public sector functions. A minority of organisations, such as the Government Communications Headquarters and the Secret Intelligence Service, are excluded on grounds of national security. Any individual, company, or other body is entitled to freely request access to information. An independent Information Commissioner will police the Act, handle appeals, and have powers to order disclosure of information.

New Labour’s reasons for advocating Freedom of Information are clear. First, there is a strong emphasis on empowering citizens against secretive and obstructive institutions: citizens should have access to official information without having to justify it. Blair, for example, tells us that ‘the onus must always be on public authorities to explain why citizens should not have access to information and not vice versa’. If citizens are significantly empowered, moreover, they must have rights that are limited only in very specific circumstances. Mandelson and Liddle argue, for instance, that ‘there should be a public right to know, underwritten by legislation, unless there is a clear stated reason why something cannot be disclosed on grounds of national security, personal confidentiality or strict commercial confidence’. Second, New Labour contends that Freedom of Information legislation increases the
accountability of public bodies and related organisations. Public bodies are legally required to disclose information and are accountable to an independent Commissioner and the public if they do not. Finally, Freedom of Information supposedly increases the efficiency of British governance. It challenges what the Labour government describes as ‘the entrenched culture of obsessive secrecy in government functions’ that nurtures ‘arrogance in governance and defective decision-making’. Removing excessive secrecy from public sector institutions and procedures, New Labour argues, makes British governance more effective. Two primary concerns emerge here. First, state institutions, agencies, and procedures are made transparent. Second, individual citizens are empowered with greater political rights. In tandem these promote New Labour’s model of inclusive governance.

Europe

New Labour’s constitutional reforms include a significant European dimension. The 1997 manifesto promises that the Labour government will play a leading role in the Europe Union. Historically Labour’s position on European integration has oscillated between hostile opposition and positive support. Although Labour opposed Britain’s initial involvement in European integration, in 1966 the Party’s manifesto proposed EEC membership. In 1971, however, Labour opposed the EEC entry terms negotiated by the Conservative government. In 1975 Labour staged a successful referendum on renegotiated EEC membership conditions. Following the 1979 general election Labour became hostile towards Europe. The Party’s 1980 Conference, for example, endorsed Britain’s withdrawal from the EEC, and its 1983 manifesto contained a concrete commitment to withdraw within the lifetime of the parliament. After 1983 Labour became increasingly positive towards European
integration. The 1987 manifesto abandoned withdrawal in favour of promoting British interests from within a reformed EEC. By 1989 the Party was advocating strong, democratic and accountable European institutions, broader co-operation on social issues, and Sterling’s entry into the Exchange Rate Mechanism. In 1993 Labour supported Britain’s ratification of the Maastricht Treaty, and, under Blair, New Labour consistently emphasises ‘constructive engagement’ with Europe.

New Labour’s European policies contain two main constitutional perspectives. First, Labour advocates reform of EU institutions and procedures. The Party’s 1997 manifesto suggests, for example, greater openness, democracy, and scrutiny in EU institutions. Second, Labour proposes British state reforms to align Britain with existing EU institutions and procedures. Since taking office, for example, the Labour government has signed the Social Chapter - a legislative framework covering social issues like living and working conditions, employment rights, and equal opportunities. Labour is also committed to proportional representation for elections to the European Parliament and to joining the single currency, although the government opted out of the first wave of convergence. Any decision to join the single currency will be taken only after a referendum.

In terms of constitutional reform, two main reasons help to explain New Labour’s European stance. For a start, New Labour argues that reforming EU institutions makes European governance more accountable. New Labour perceives a democratic deficit in the current arrangements: much EU power is exercised by unelected bodies similar to quangos. The European Commission, for example, comprises unelected government-appointed national representatives. Extending the role of democratically elected institutions such as the European Parliament supposedly increases accountability. Greater European integration on social issues, New Labour
tells us, empowers citizens. Signing the Social Chapter, for instance, enhances the employment rights of citizens. Indeed, the Working Hours Directive already affects British workers by limiting, with some exceptions, the number of hours any employee is required to work each week.

Conclusion

Clearly most of New Labour’s constitutional reform programme has, in one form or another, been proposed before. This time, however, the individual reforms are not presented in isolation but combine to form a broader constitutional vision. Each individual proposal has significant implications for British governance. In unison the proposals largely complement each other in developing a new model of governance. This new governance restructures the state, the citizen, and the relationship between state and citizen. Prior to Labour taking office successive Conservative administrations promoted an exclusive model of governance. Local government was disempowered, decision-making became centralised and unaccountable, and citizen participation was reduced effectively to an episodic act of voting. In contrast, New Labour develops an inclusive model of governance that disperses power and encourages individuals, communities, and groups to participate in political processes. Partnership and co-operation are the keys to good governance.

The reform programme restructures the state, in New Labour’s terms, as decentralised and more democratic, representative, fair and accountable. However, decentralisation, representation, fairness, and accountability are not separate to democracy. New Labour seldom evokes the latter term without reference to one of the former. Rather, New Labour’s concept of democratic governance necessitates decentralised, representative, fair, and accountable state structures. New Labour
considers these characteristics valuable because each promotes a notion of political inclusiveness. Decentralising state institutions brings governance closer geographically, and in some sense politically, to citizens. New Labour believes that this encourages a sense of political ownership or involvement amongst citizens. Making state institutions more representative promotes inclusiveness because citizens who feel that decision-making reflects their interests and aspirations are, New Labour believes, more likely to participate or feel included in governance processes. Similarly, fairness and accountability promote inclusiveness, because citizens are more likely to participate in political processes if they feel that procedures and institutions are fair and readily open to account.

Restructuring the state clearly impacts on the citizen. New Labour restructures the citizen around a notion of empowerment. Individuals are empowered in terms of access to and representation in political processes. We have seen that the imperative informing this empowerment is one of inclusiveness. New Labour develops a notion of participatory citizenship whereby individuals are actively included in political processes. The citizen also is empowered in terms of legally enforceable rights. People who have few political rights are unlikely to feel included in political processes. New Labour seems to believe that individuals will participate effectively in political processes only if they possess appropriate information and have access to redress in cases of rights violations.

Finally, restructuring the state and the citizen fundamentally restructures the relationship between the state and the citizen. New Labour develops an inclusive style of governance based on trust. Individuals and communities will only participate in political processes if they are trusted to do so. New Labour trusts individuals and communities to participate in governance, and to exercise a degree of self-governance.
Measures which reform state institutions and empower citizens express this trust in concrete policy terms. Devolution policies, for example, suggest that the Labour government trusts Britain’s constitutive nations and regions to take responsibility for their own self-governance. The frequent use of referenda indicates that the government trusts individuals to participate in important decision-making.

It is too early to evaluate the success of the Labour government’s constitutional reform programme. Indeed, some of the proposals discussed here may never materialise as concrete policies. Moreover, there are contradictions and ambiguities within the government’s constitutional reform programme. For example, how can we reconcile the idea of ‘closed’ electoral lists with the drive for Freedom of Information? Why is proportional representation suitable for devolved assemblies but not for Westminster? Nevertheless, the ideas contained in New Labour’s constitutional proposals do represent a significant attempt to restructure the state, the citizen, and the relationship between state and citizens. Quite how these ideas will transform British governance remains to be seen.


3 Mitchell, ibid., 480; “From Unitary State to Union State: Labour”s changing view of the United Kingdom and its implications”, in Contemporary Political Studies, (Belfast: Political Studies Association, 1996), 566.


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7 Blair, “Democracy’s Second Age”, 34.

8 Ibid.


10 Blair, New Britain, 292.

11 D. Dewar, “Leading by Example”, The Economist, 4 October 1997, 44.


13 Dewar, “Leading by Example”, 42-44.

14 Blair, “Democracy’s Second Age”, 34.

15 Dewar, Scotland’s Parliament, i.

17 Ibid.


19 Ibid., 75.

20 Ibid.


22 Mandelson and Liddle, Blair Revolution, 207.


24 Proportional Representation for European elections is motivated in part by external pressures, because EU member states are compelled to adopt uniform systems for European elections.


27 Ibid.


32 Straw, interview, New Statesman, 16.

33 T. Blair, New Britain, 310-321.

34 Ibid., 319.

35 Mandelson and Liddle, 205.

36 Ibid; Blair, New Britain, 318-19.

37 Ibid., 318; The Independent, 18 November 1998.


39 Labour Party, Meet the Challenge, Make the Change, 57-58.

40 Labour Party, It's time to get Britain working again, 22-23.


42 A Mayor and Assembly for London, Cm 3897, March 1997.


45 Straw, interview, New Statesman, 16.

46 Ibid.

47 At least one commentator questions the claim that English regionalism will bring decentralisation: Bradbury, “The Labour Party and the Politics of English Regional Reform”, 276-77.

48 Cited by Mandelson and Liddle, Blair Revolution, 193.


50 Ibid., 7.

51 Ibid., 6.

52 Mandelson and Liddle, Blair Revolution, 194; Rights Brought Home, 6.
53 T. Blair, New Britain, 317.

54 Mandelson and Liddle, Blair Revolution, 194.


56 Labour Party, Meet the Challenge, Make the Change, 59; It’s time to get Britain working again, 23.

57 Your Right to Know, Cm 3818, December 1997.

58 Blair, “Democracy”’s Second Age”, 34.

59 Mandelson and Liddle, Blair Revolution, 204

60 Your Right to Know, 1.


63 Labour Party, Britain Will Win, 15.

64 Labour Party, Meet the Challenge, Make the Change, 5-7 and passim.

65 Ibid., 175-87.