Executive Summary

1. As the four nations of the UK evolve into increasingly distinct political arenas, the multi-national character of the Union should be more fully acknowledged.
2. Increased autonomy for the component nations should be balanced with more effective representation at the centre.
3. This could be achieved through a reform of the House of Lords into a ‘House and Nations’ in which Scotland, Wales and Northern Ireland would be over-represented.
4. Such a reform would also increase England’s autonomy by creating a de facto English parliament but not a separate English government.
5. It would combine greater autonomy with stronger representation thus helping to maintain the unity of the UK and the coherence of its government.

0. Submitter

I am Senior Lecturer in Comparative Politics at the University of Kent and the Acting Director of Kent’s Centre for Federal Studies. I have been working on issues of devolution, federalism, and state restructuring for over 15 years. I am the author of Restructuring the European State (manuscript currently under review) and of Between Two Unions: Europeanisation and Scottish Devolution (Manchester University Press, 2005), in addition to numerous articles in scholarly journals, chapters in edited books, and other works. I am also the joint editor of Routledge’s Studies in Federalism and Decentralization book series and a member of the Executive Board of the Federalism and Multilevel Governance research committee of the International Political Science Association. For more information please visit www.dardanelli.net. I am making this submission in a personal capacity.

1. Purpose

The purpose of the present evidence is to outline some ideas as to the principles that should underlie the governance of a devolved Union and the practical steps that could be taken to improve the way the country is governed. These ideas are based on an effort to adapt the
lessons that can be derived from a comparative analysis of governing arrangements across the world to the particular context of the UK.

I. PRINCIPLES UNDERLYING THE UNION AND DEVOLUTION

2. Long-standing commitment to responsiveness
As a country with a long-standing commitment to liberalism and democracy, the UK has always strived to govern itself in accordance with the desires of its population and, where these differed in different parts of the country, to adapt the exercise of government accordingly. The separate arrangements for Scotland in the fields of church, law and local government enshrined in the 1707 Treaty of Union were an early and prominent example. They enabled the UK to govern Scotland in a manner sensitive to the latter’s specificities within a unitary constitutional structure. Likewise, the process of devolution from the late 1990s has sought to accommodate the demands for different degrees and forms of self-government coming from Scotland, Wales, and Northern Ireland. This is a sound principle of democratic government and should be retained.

3. But trade-off with coherence
Given the significantly different contexts in the four nations of the UK and England’s overwhelming demographic preponderance, however, responsiveness to the demands for self-government have led to an increasingly differentiated and asymmetrical constitutional structure, which threatens to undermine the coherence of the way the Union is governed. There is a trade-off between responsiveness and coherence. The constitutional challenge facing the UK is thus one of how to optimise the trade-off so that responsiveness is maintained but incoherence is minimised. In these notes I put forward some reflections on how this could be achieved.

4. Four nations behaving politically in an increasingly differentiated way
England, Scotland, Wales, and Northern Ireland are behaving politically in an increasingly differentiated way. This is fuelling demands from each of them for wider self-government and a distinct constitutional position within the Union. The UK is thus moving in the direction of being a political system made up of four increasingly distinct units. In this
respect the UK is coming to resemble the Kingdom of the Netherlands, which is made up of four, largely autonomous, countries. Such an evolution will have significant consequences for the parties, with England, Scotland, Wales and Northern Ireland likely to develop their own increasingly different party systems. The ‘English party system’ is already very different from those in Scotland and Wales due to the growing strength of Ukip as well as the absence of the SNP and Plaid Cymru, while the Northern Irish parties have always been exclusive to the province. The statewide parties themselves are likely to evolve in a similar direction, to the point where they might be more accurately described as a family of separate parties rather than branches of the same party.

5. Need to fully accept the multi-national nature of the UK
There has long been a tension in the UK between, on the one hand, recognising England, Scotland, Wales, and Northern Ireland as ‘nations’ and, on the other hand, behaving as if the UK were a nation-state rather than a multi-national state. When the ‘national’ character of the four countries had primarily a cultural, as opposed to political, connotation the above tension could be left unresolved without serious political costs. As the nations are becoming increasingly ‘political’ nations, however, the enduring tension needs to be resolved if the UK is to continue to be governed effectively. The time has come for the UK to accept fully that it is a multi-national state rather than a nation-state and that self-government for each of the four nations has to be complemented by their effective representation in the government of the Union as a whole.

6. Devolution within England should be kept distinct
Devolution within England is often included in discussions about devolution to the minority nations but ought to be kept distinct. The latter has granted autonomous law-making powers in many policy fields to the Scottish parliament and the Welsh and the Northern Irish assemblies while devolution within England would only be executive or administrative. The two processes are thus qualitatively different. The idea of devolving powers within England also needs to be clarified, particularly as to which units of local government would be granted additional powers. Would power be devolved to metropolitan areas only or to rural ones too? If rural areas are to be included, would this be done through the existing tiers of local government or would larger regional bodies be created?
7. Summary
The UK should remain responsive to the different demands made from its component nations while at the same time it should strive to maintain coherence in the government of the Union as a whole. Recognising that there is a trade-off between responsiveness and coherence, the UK should balance the increased autonomy granted to the minority nations with their more effective representation at the centre.

II. Practical steps to strengthening the Union

7. How to govern a looser Union?
Three options have attracted the most attention. The first would be to devolve additional powers to Scotland, as promised in the run-up to the referendum, but maintain the status quo as regards England. The second would be to exclude the Scottish – and possibly also Welsh and Northern Irish – MPs from voting on England-only laws or reduce their number so that the likelihood of ‘English laws’ being enacted without the backing of a majority of English MPs would be minimised. The third would be the adoption of a full-scale federal system, entailing the creation of an English parliament and an English government operating alongside a British parliament and government. All three of them, however, would bring significant downsides that might put the Union at risk again in the medium term. The status quo is likely to raise English resentment at the ‘privileges’ being enjoyed by the other nations and fuel calls for their abolition. Marginalising Scottish, Welsh and Northern Irish MPs or reducing their number would further detach the minority nations from British political life and erode the bonds between them and England. While federalism is the classic constitutional device for combining ‘self rule’ and ‘shared rule’, it would be problematic to adopt in the UK due to the overwhelming preponderance of England. Nor would a more ‘symmetrical’ federal system constituted by Scotland, Wales, Northern Ireland, and a number of English regions be more viable due to the lack of popular support in England for regional bodies with comparable powers to those of the devolved assemblies for the minority nations.

8. A new bicameralism
The competing objectives of increased autonomy and representation for the minority nations, as well as for England itself, could be optimised through a rejuvenation of the bicameralism at the heart of the UK political system. The House of Commons could be elected entirely from English constituencies and could be competent for legislation only affecting England. The House of Lords could be transformed into a directly elected ‘house of nations’ and would have control over matters concerning the UK as a whole. While the lower house could continue to be elected by first-past-the-post, the upper house should be elected by a form of proportional representation such as the single transferable vote. In such a transformed House of Lords, Scotland, Wales and Northern Ireland should be over-represented compared to England so that the latter would not have more than, say, 60 per cent of the seats. The government as a whole would continue to be responsible only to the Commons and would be formed by the party or parties controlling a majority of seats there, as at present. In the upper house, by contrast, the government would have to rely on a different majority or seek one on a case by case basis. The House of Lords would have the power to force the resignation of the cabinet members holding ministerial portfolios within its oversight, through a vote of ‘individual no confidence’. As a matter of convention, some of these portfolios should be allocated to non-English members of the upper house.

9. Striking a balance

Such renewed bicameralism would thus deliver a de facto English parliament but not a separate English government. The different political make up and modus operandi of the two houses would match the different nature of their policy responsibilities as well as the diversity of political culture across the four constituent countries: the more partisan and adversarial (English) domestic policy in the Commons versus the more common-interest orientated and consensual (British) foreign affairs and macroeconomic regulation in the Lords. Although many aspects of such a reform would need deeper analysis than is possible here, it would have the advantage of delivering ‘English votes for English laws’ while giving the non-English parts of the kingdom a larger say in the way the UK is governed. It would thus provide some of the advantages of a federal set up but without the creation of new institutions and without the emergence of a potentially destabilising competition between an English and a British government.
10. A partisan advantage?

Proposals entailing the establishment of ‘English votes for English laws’ are often viewed with suspicion by many because they are perceived to be likely to create long-term partisan advantages. In the context of a more devolved Union, however, that is one in which the minority nations enjoy increasing autonomy and witness increasingly differentiated party systems, the distinction between governing England and governing the UK will inevitably become a sharper one and any party aiming to govern England will have to do so on the basis of its support there. Voters’ behaviour is likely to evolve in tandem with the evolution of constitutional structures, hence any partisan advantage brought by constitutional reform will likely be short-lived. The different proposals for reforming the constitutional structure of the UK should thus be judged in terms of their pros and cons for the preservation of the Union and the quality of its government and democracy, rather than from a narrow partisan perspective.

11. Recommendation

My central recommendation to the Committee is that the UK should balance increased autonomy for the minority nations with a more effective representation of them at the centre, within a fuller acknowledgment of its multi-national character. This could be achieved through a reform of the House of Lords and of its relationship with the Commons. A reform along the above lines would also deliver increased autonomy to England while binding the four components part of the Union more closely together.

2 October 2015