

# What sovereignty means today?

Japan Times 08.01.21

The United Kingdom is now free, goes the proud claim. It's free and independent from the entanglements of the European Union, its treaties and its laws and regulations. Sovereignty has been regained. Control can be taken back

But wait a minute. What exactly is this sovereignty? And precisely who has taken back control?

The lawyers have a clear legal answer to the first question. Sovereignty means supreme legitimate authority over a defined region, state or nation. Only that authority can make the laws, and in the U.K.'s case, these laws are from now on unquestionably superior over the jurisprudence of the Court of Justice of the European Union.

So in strict legal terms, that is correct. Something has been regained. But as we step out of the courts into everyday life and into the real, amazing world of 2021, how does this match with reality?

In theory, sovereignty is indivisible. It cannot be shared or pooled, and so it was never removed from the U.K. in the first place. What is it therefore that has now been regained for the U.K., if it was always there anyway? At any time over the last 50 years the British Parliament, and the successive governments it has sustained, could in theory have willed an exit from the whole EU structure and all its treaties.

But now along comes a further complication on the sovereignty scene. Is Parliament still sovereign, as has always been assumed? There is another kind of national sovereignty in the wings, which has always been there but is different from the filtered parliamentary sort. This is the more direct kind of sovereign authority that comes direct from the people — popular sovereignty.

This is not new in British history but has certainly been vastly invigorated and awakened by the communications revolution. When given the chance to challenge Parliament, as in the referendum of 2016 in the U.K., this kind of sovereignty, claiming to be "the will of the people," did so and took a different view from successive parliaments on continued EU membership. This was a higher sovereignty, called by some "an instruction," which those in control of Parliament felt they could not withstand. So it was goodbye to parliamentary sovereignty in that respect.

This sovereignty issue ought to be as untroubling for the U.K. as it seems to be for Japan. After all, the British state is defined by its island status and clear territorial borders, like Japan, with one or two outlying parts, like Japan, and with an ancient hereditary monarchy, like Japan (although not nearly as old as Japan's).

But somehow the whole question in the U.K. is turning out to be very troubling indeed. Perhaps the problem lies in the sheer historical continuity in the British case, the handing down from precedent to precedent through the centuries.

But there have also been other eroding forces at work, too. Nibbling away at sovereign parliamentary authority at Westminster have been the growing rights and influence of devolved administrations, notably in Scotland's case, evolving into miniparliaments and exercising not only rights conceded by the sovereign parliament but also what begins to look and sound like popular sovereignty — the trappings of new nation states with their own laws.

So if sovereignty ever left the U.K. in the first place, and is now deemed to be coming back to British shores from Brussels, to whom exactly is it now accruing? To Parliament? Probably not. To the executive kept in place by a parliamentary majority until the next election? Possibly. To the capitals of the devolved regions or nations? To the ever louder popular will, as voiced by referendums, reinforced not just by media clamor and opinion surveys, but by the hammering power of direct, continuous and almost universal expressions of a thousand different opinions via constantly expanding communications technology?

Can the theory of absolute parliamentary authority, on which the entire British Constitution rests, survive this battering from so many angles? Can the U.K. do “exactly what it wants” (the prime minister’s words), now it has left the EU, in a way it could not do before?

Yes, it can make its own laws, but is it any freer to shape those laws than before, when bound by thousands of international treaties, commitments, solemn undertakings, cooperative endeavors, security arrangements from which in theory it could withdraw but in practice would cause so much self-harm that it is impossible?

Just as the poet John Donne wrote more than three centuries ago that “no man is an island, entire unto itself,” so it is obviously the case today that no country can be “entire unto itself.” Even North Korea is getting that message.

Add to all this one major change the lawyers and the academics persistently underestimate. The microchip miracle and the resulting communications revolution have changed people’s behavior and attitudes fundamentally — to one another, to institutions and to higher authority in all forms. The power to challenge official opinion, to assert alternative views, to question every fact, to share counterviews with the whole world, is now in nearly anyone’s pocket.

As a result, that other, cruder form of sovereignty — the popular will — has grown many times more assertive, but also more incoherent and self-contradictory. The necessary bindings of trust, respect, loyalty and obedience necessary to sustain central authority and glue a sovereign nation together have been badly shaken. The new brew of identity politics, local powers, city powers, mininationalism and separatism, chaotic though it may be, has largely taken over. Nothing can silence it or put it back in its box.

Something has been gained for the British nation from the prolonged Brexit process. But something is in great danger of being lost.