

A majority government will not guarantee constitutional stability

In UK general elections, the main political parties campaign to convince the electorate that they are deserving of a stable majority in the Commons. A stable majority is a pre-requisite to be able to deliver, via legislation, the policies promised in their manifestos.

In this general election, each of the main parties are promising that they would use a majority to enact significant constitutional change to deliver their Brexit policies. In the Brexit context, this has led to a narrative that we need a government with a majority so that it can deliver constitutional change, via legislation to deliver Brexit or another referendum, which in turn will provide political stability and let the government of the day focus on other matters (like the NHS). There are good reasons to doubt this narrative.

In 2017 and 2019, the prime minister called an election asking the public to grant the Conservative Party a stable majority so that it can deliver the constitutional changes necessary to implement the referendum result. One of the ironies of the Brexit process so far is that the political instability has been the product of the government's inability to deliver significant constitutional change. For most democracies, constitutional change would itself be the source of uncertainty.

All the talk of "Brexit chaos" is at odds with the reality that since 2016 we have not yet seen any major constitutional change take effect. Two of the reasons that change hasn't happened are worth emphasising. First, crafting legislative solutions to deliver Brexit and which can command a majority in the Commons is extremely difficult even with a majority. Second, both parliament and the courts have been unusually proactive in acting as checks on the government's executive power, which has prevented the government from pursuing a no-deal as way of circumventing the absence of a Commons majority for any one form of Brexit.

A decent Commons majority for the new government would help with both of these difficulties, which Theresa May and Boris Johnson experienced in the 2017 parliament. With a majority, the Conservative Party will be able to pass the programme motion to set a timetable to get the EU (Withdrawal Agreement) Bill through the Commons. A Labour government would be able to use a majority to pass legislation to provide the basis for another referendum. That's all fine. But the idea that either of these policies would result in short or long term constitutional stability is seriously problematic.

We are going through a period of long-term constitutional instability which pre-dates Brexit. Since at least the Scottish independence referendum, it has been clear that the UK constitution is in need of major reform. In a sense this is normal, and supports the narrative of the main parties in this election, because we need a government with a majority to deliver the constitutional reform needed for our political system to function effectively. What is missing from this account is that all solutions on offer, from delivering Brexit to constitutional conventions, will involve a degree of uncertainty and instability.

The last three governments to enjoy stable majorities in the Commons all delivered major constitutional change, from devolution to fixed-term Parliaments and then to the EU referendum itself. The problem for the next government is that even with a stable majority, they will have to deliver change in a period of profound constitutional instability. In other words, a majority for any one party may result in a more, rather than less, unpredictable constitutional future for the UK.

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