

## Introduction

# The Scottish Independence Referendum: What are the Implications of a No Vote?

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THE SCOTTISH independence referendum was held on 18 September 2014. From a voter turnout of 85 per cent, 55 per cent voted No to the question ‘Should Scotland be an independent country?’ The result provided something for both sides. For one, a 55 per cent No vote can be portrayed as a decisive outcome that settles the matter for a generation. For the other, a 45 per cent Yes vote provides hope. In the short term, the hope was that the Smith Commission, formed to produce proposals for further devolution, would recommend a meaningful level of constitutional change. In the long term, it may be that the failure to deliver an adequate devolution ‘settlement’ produces enough of an appetite for a second, this time successful, referendum.

In other words, the result was not decisive and did not settle the matter. Instead, we have moved quickly from a referendum on independence to a Commission that came under pressure to recommend a sustainable level of further devolution in a remarkably short space of time, and only satisfied one side of the argument.

One key explanation for this outcome is that the main political parties, all in favour of the Union, had to respond to the possibility that there might be a Yes majority. Twelve days before the vote, a YouGov survey suggested that Yes had taken a slight lead in the polls. This result prompted a swathe of UK attention and what is now called ‘The Vow’ from the three main UK political parties. ‘The Vow’ refers to a front-page headline in the *Daily Record* newspaper which summarised a pledge by the three main parties to deliver ‘extensive new powers’ (and protect the Scottish budget) in a short space of time.

The Commission, chaired by Lord Smith of Kelvin, was set up to this end. Its terms of reference were:

To convene cross-party talks and facilitate an inclusive engagement process across Scotland to produce, by 30 November 2014, Heads of Agreement with recommendations for further devolution of powers to the Scottish Parliament. This process will be informed by a Command Paper, to be published by 31 October and will result in the publication of draft clauses by 25 January. The recommendations will deliver more financial, welfare and taxation powers, strengthening the Scottish Parliament within the United Kingdom.<sup>1</sup>

Although its deliberation process included a short period of public consultation, the Commission served largely as a way to negotiate a devolved settlement between the Scottish National Party (and Scottish Green Party), which now seeks the devolution of all policies bar foreign, defence and monetary policy, and the Conservative, Labour and Liberal Democrat parties, which all presented separate, and far more modest, devolution proposals during the referendum campaign.<sup>2</sup> The Commission reported on 27 November 2014, and its recommendations include to:

- make the Scottish Parliament ‘permanent’;
- devolve some fiscal powers, including the power to set income tax rates and bands (higher earnings are taxed at a higher rate), but not the ‘personal allowance’ (the amount to be earned before income tax applies), set air passenger duty and receive a share of sales tax (VAT);
- increase the Scottish government’s borrowing powers;

- devolve some aspects of social security, including those which relate to disability, personal care, housing and council tax benefits;
- devolve some policies designed to encourage a return to employment;
- devolve the ability to licence onshore oil and gas extraction (which includes ‘fracking’, or unconventional drilling for shale gas);
- devolve control of the contract to run the Scottish rail network;
- encourage greater intergovernmental relations and a more formal Scottish government role in aspects of UK policy-making.

The UK government now aims to produce draft legislation to take these plans forward, although the bill will not be passed before the general election in May 2015. The three main parties are expected to incorporate Smith’s recommendations into their manifestos for the UK General Election in May 2015.

## The special issue

It is in that context that we present this special issue: as a collection of articles on the likely future of a devolved Scotland, the problems that may arise during the process of further devolution and the opportunities that the Smith Commission presents. Clearly, our expectations should be limited. The independence debate produced a window of opportunity to return to ‘first principles’ and consider the nature of the current and future Scottish political system. Potential topics included its economic future, its relationship with UK and international organisations, the prospect of political reform and the extent to which its politics and policies might resemble those of Nordic democracies. The further devolution debate offers a much more limited, albeit still important, debate about the political and practical reasons to devolve specific powers to Scotland.

Our authors are all contributors to the Economic and Social Research Council’s ‘Future of the UK and Scotland’ programme, and most are members of its Centre on Constitutional Change.<sup>3</sup> We held a one-day workshop at the University of Edinburgh in

November 2014, with practitioners from the UK and Scottish governments, local government, the Scottish Parliament and the third sector. While, in the workshop, we divided the articles into five separate themes, the debate returned frequently to two cross-cutting themes: the difference between rhetoric and reality in Scottish public debate, and the principles and practical issues regarding political reform.

We debated, in some depth, competing ideas about the value of a distinctively Scottish rhetoric—regarding, for example, its reputation for participative politics and social democratic policy-making—which underpins debates on constitutional change. One argument is that it provides a convenient veneer to mask the similarities between UK and Scottish politics and the continuation of inequalities despite aims to the contrary. Another is that Scottish rhetoric serves a long-term purpose: to provide a space in which to debate politics and policies in a way that is conducive to distinctive Scottish policies.

We also debated the balance between a focus on principles and practical outcomes. Well-established democratic principles underpin the decision to hold referendums to invite public participation and promote concepts such as subsidiarity, universalism and ‘fairness’. They are often undermined by practical outcomes, in which referendums produce no decisive result and democratic and policy reforms produce unintended consequences. These practical problems, often raised by academics, may prompt us to question how far we want to go to uphold, rather than rethink, these key principles. Or, critically minded academics may need to be reminded that problems can be solved, and that the debate on constitutional change is a great opportunity for us to engage with politicians, practitioners and the wide public to help solve them.

## Theme 1. The external dimension: Intergovernmental relations between Scotland, the UK and the EU

The UK is a political system with an unusually high reliance on convention rather than a constitution or equivalent statute, and this extends to the relationship between the

UK and devolved governments. For example, although the Scotland Act 1998, and subsequent amendments, set out the powers of the Scottish Parliament, it does not determine how the UK government interacts with the Scottish government. Instead, it has developed formal intergovernmental mechanisms, many of which remain underused, and a series of informal means for the governments to interact. This arrangement was more easily maintained from 1999 to 2007 because governmental mechanisms could be supplemented by political party (or ministerial) contacts when Labour led both governments. Aspects of this informal system continued when the SNP formed a government in 2007, but with greater potential for issues to spill out into public debate or for one side to press for more formal mechanisms to resolve issues. In each period, it is clear that the UK government is generally the more powerful actor, able to influence how and when UK and devolved governments interact. Scottish government success depends more on its political skills used in each case.

To some extent, the independence referendum summed up this picture of informality. At the heart of the process was a major ideological disagreement between parties leading the UK and Scottish governments, which could only be resolved publicly. Yet the intergovernmental process to determine the rules of the referendum and ensure that both sides accepted the result—and that the result was legitimate in the eyes of other actors, such as the European Union and its member states—was remarkably smooth. As Robert Liñeira and Dani Cetrà discuss in a comparison with the Basque Country, Catalonia and Flanders, this level of agreement should not be underestimated.

Three articles explore aspects of this intergovernmental relationship. Nicola McEwen and Bettina Petersohn argue that this system will be more difficult to maintain when there is further devolution to Scotland and both governments are encouraged to cooperate more closely and share power in a more meaningful way. In particular, the greater devolution of taxation powers will require both governments to share powers, interact and cooperate in a way not required by the current system, in which there is a relatively

clear division of responsibilities. They situate the UK within the comparative study of federal systems, with different models of shared powers, and examine the establishment of new intergovernmental bodies to reflect greater devolution.

David Bell warns against the devolution of taxation powers without fully considering why they are devolved, how they will be used by the Scottish government and, most importantly, how the devolution of powers from the UK affects the UK government's ability to maintain macroeconomic stability. Bell highlights the disconnect between a wider political process, in which a binary Yes/No choice still influences the call for greater devolved powers, and a more technocratic process regarding how the use of each power adds up to produce a coherent strategy. A Smith agenda driven by the former, in which the outcome results from a negotiation between parties, may undermine the latter.

Michael Keating puts Scotland and the UK's relationship with Europe in a historical context, identifying the ways in which the main Scottish parties have supported or opposed European Union membership and integration over time. Keating highlights the development of Scottish National Party strategy, from the 1980s, to propose Scottish independence within the EU, and Scottish Labour's ad hoc attempts to use devolution as a platform for a greater role in EU politics. The EU question demonstrates well the asymmetry of power between the UK and Scottish governments, with the former generally unwilling to entertain the latter's pursuit of a more independent role in the EU.

The EU issue was only a small part of the independence debate—and most attention focused on Scotland's likely inclusion, rather than its future role within the UK and/or EU. Further attention has shifted to the prospect of a UK in/out EU referendum in 2017, and its effect on Scottish attitudes if the decision to exit the EU is based exclusively on votes in England. Yet the EU should feature in the more immediate discussion of a future devolved Scotland, not least because the prospect of a 'shared powers' model within the UK has not, so far, been reflected in Scotland's role in the EU. It is not clear how the Scottish government wants to engage in the EU when it cannot act as a proxy member

state. Nor is it clear how willing the UK is to entertain a more direct Scottish role.

## **Theme 2. The internal dimension: Political system reform within Scotland**

What has been the effect of Scottish devolution on politics within Scotland? One aspect relates to its political system: advocates of Scottish devolution used the devolution debate to propose significant political reforms, using 'old Westminster' to define a contrasting vision of 'new Scottish politics'. This agenda was also apparent during the independence debate, but on a much reduced scale, in which the issue struggled to compete with economic and other aspects of 'high politics'.

Generally, this reform agenda has been ill defined beyond the pursuit of a more proportionate electoral system, designed in part to produce a greater need for cooperation between political parties. In most cases, the hopes of reformers remain largely unfulfilled. Scotland developed a Westminster-style political system, in which most policy was made by the Scottish government and the Scottish Parliament developed a Westminster-like scrutiny role. Direct public participation remained minimal, and initiatives designed to produce more participative and deliberative forms of democracy—such as a civic forum and modern petitions process—had a limited effect. Local government remained heavily constrained by a UK-style tendency to favour centralisation over subsidiarity, producing the greater but limited devolution of powers to local authorities.

In that context, two articles explore the possibility that the independence referendum could, or should, prompt democratic renewal. Stephen Tierney argues that, in many respects, the Scottish experience provides a good model for the future, since it engaged the public in an almost unprecedented way, prompting a very large voting turnout and a lengthy period of debate in which an unusually large part of the public played a role. He contrasts the referendum with the Smith Commission process, in which the opportunity for open debate and public involvement has been curtailed by an

unrealistic timetable, followed by a return to party politics as each party produces a separate (manifesto) response in the run-up to the UK General Election in 2015.

Paul Cairney examines the likely effect of political reforms. The devolution of more administrative powers to local authorities, and unelected public bodies, has the potential to further marginalise the Scottish Parliament and undermine the ability of smaller interest groups to engage in policy-making, without necessarily producing an equivalent gain in terms of greater local participation. These reforms have the potential to produce the worst of both worlds: undermining the role of the Scottish Parliament while failing to satisfy local demands for meaningful accountability measures to accompany administrative devolution.

## **Theme 3. The policy dimension: Social and higher education policy in Scotland**

A UK-wide focus on public expenditure tends to highlight Scotland's relative spending advantage, which, combined with references to the maintenance of 'universal' services, produces the idea that Scotland is a well-funded and egalitarian political system. Scottish devolution has produced policy divergence in favour of more 'universal' provision, and a key part of the referendum debate was about the extent to which independence would accelerate these differences. Yet, while our two articles on policy identify a common philosophy on public services—including an anti-market rhetoric in favour of more traditional forms of government—they also highlight the pressures to converge with the rest of the UK, and the hard choices that produce the same sense of 'winning' and 'losing'.

Some aspects of the Scottish higher education system are well known: it remains integrated within the UK research system, in which there is a UK-wide system to assess research quality and distribute income; but it has diverged significantly in its treatment of students by abolishing tuition fees, which have now risen to £9,000 per year in England. Sheila Riddell, Sarah Minty, Elisabet Weedon and Lucy Hunter Blackburn highlight the importance of the research issue to

the independence debate, showing how opponents of independence described the potential to lose Scotland's privileged place within a UK system. They then describe a much less known consequence of Scottish policy on tuition fees: Scottish students have, on average, less debt, but the debt is shared very unequally—in a system that already favours the middle-class students more likely to go to university than college. These inequalities are often masked by a 'universal' approach in which higher education is free to (eligible) Scottish students.

Kirstein Rummery and Craig McAngus focus on social services to vulnerable groups, arguing that, while Scotland enjoys a reputation for distinctive and 'fairer' services, the reality is less impressive. The Scottish government faces very similar problems and has produced, since devolution, a system that is not radically different from the rest of the UK. They argue that devolution and independence provided the potential for major policy change, but that Scottish policymakers have been rather conservative and unwilling to exploit that potential.

#### **Theme 4. The comparative dimension: Scotland as a source, and borrower, of lessons**

In our fourth section, we explore the extent to which the Scottish experience is based on lessons from other countries and contributes to debates in other countries. Malcolm Harvey critically examines the idea that Scotland can move towards a 'Nordic model' of policy and policy-making. Reference to Nordic countries is often shorthand for the pursuit of certain ways of doing politics, often associated with a Scottish 'tradition' of participation and cooperation, or a set of policies associated with social democracy. Harvey suggests that this Nordic image was never explored fully in the debate; instead, people tend to identify their favourite elements of politics in individual Nordic states. Yet one cannot simply cherry-pick aspects of political systems without examining why they were adopted in particular countries and, more importantly, how a *combination* of policies has been designed to make the whole greater than the sum of its parts. For example, a

classic problem in the Scottish debate is that people seem to demand low taxes and high spending (while the 'Nordic' model, adapted to Scotland, may require a combination of high, progressive taxation and 'universal' spending).

Robert Liñeira and Dani Cetrà examine the lessons that Scotland offers to comparable regions in the European Union in which there is significant support for independence or greater autonomy. They suggest that the Scottish experience has become an important focal point for campaigners, and that it provides a standard by which other regions can gauge their progress. Things that we may now take for granted—including the need for a referendum, with the rules agreed by both governments—could become the international norm.

The comparative discussion also reminds us how 'mainstream' the SNP has become. In other regions there is often the portrayal of a relatively extreme element, or an association between nationalism and right-wing policies, but both elements are hard to find in the modern SNP. Rather, it has become a well-established party of government. Indeed, the changing status of the SNP is a key element in the explanation of the referendum's existence and nature. It was able to adapt well to devolution, using, first, Scottish parliament elections as platforms to develop party support and, second, a sustained period of competent government, to generate enough support to secure a majority in the Scottish Parliament. This majority is one of the most important explanations for the holding of a referendum in 2014, alongside the UK government's willingness to support it. Similarly, while it did not seem the case at the time, the Scottish referendum may be seen outside the UK as a model of 'mutual respect and cooperation' between governments, parties and campaigns (a point reinforced by Stephen Tierney when drawing comparative lessons from the Scottish experience).

#### **Theme 5. The public dimension: Social attitudes in Scotland and the rest of the UK**

One thread running through these debates is that Scotland is somehow different from the

rest of the UK. Its social attitudes may sometimes be more 'left-wing' and more conducive to social democratic or universal policies. Or, the question is not about how distinctive are Scottish attitudes, but rather what is the outcome when a Scottish population *thinks* it is relatively left-wing and parties respond to that perception. When people demand further devolution, do they also demand further policy change?

Ailsa Henderson, Charlie Jeffery and Robert Liñeira present a mixed picture, in which Scottish respondents want to maintain existing differences on policies such as tuition fees and prescription charges, but do not want to see a move away from UK-wide common entitlement to social security. Henderson and colleagues also widen their analysis considerably to identify a greater tendency in Wales and, in particular, England to demand a degree of policy uniformity in these areas.

Henderson and colleagues also explore the idea that a continued focus on Scottish demands for constitutional change has prompted people in England to demand some kind of equivalent response: to introduce an

English parliament, devolved English regions or English Votes for English Laws (EVEL) and to address a growing, but still minority, view that Scotland gets more than 'its fair share' from the Union. Perhaps not surprisingly, 'people in Scotland and (especially) Wales think they are disadvantaged relative to England; and people in England think they are disadvantaged relative to everyone else'. Charlie Jeffery considers the implications of these constitutional, political and attitudinal developments, looking at the future prospects for constitutional change across Britain and identifying a continued level of uncertainty, despite the hope that a referendum on independence would settle things once and for all.

## Notes

- 1 <https://www.smith-commission.scot/about/> (accessed 2 April 2015).
- 2 A. Paun, R. Munro, J. Randall and L. Shaddock, *Governing After the Referendum*, 2014, <http://www.instituteforgovernment.org.uk/sites/default/files/publications/Scenarios%20paper%20-%20final%20APJR.pdf> (accessed 2 April 2015).
- 3 <http://www.futureukandscotland.ac.uk/> (accessed 2 April 2015).