

# THE SCOTTISH INDEPENDENCE REFERENDUM AND AFTER

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SUMMARY: The Scottish Dilemma. – Constitutional Traditions in Scotland. – The Nationalists in Government. – The Battle Ground. – Economy and Finance. – Welfare. – Defence and Security. – Europe. – The Campaign. – The Outcome. – The Aftermath. – The Smith Report. – EVEL and Barnett. – The European Context. – The Future of the State. – *Abstract – Resum – Resumen.*

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## The Scottish Dilemma

The Scottish independence referendum on 18 September 2014 was a highly unusual event, an agreed popular vote on secession in an advanced industrial democracy. The result, with 45 per cent for independence and 55 per cent against, might seem to have settled the question decisively. Yet, paradoxically, it is the losing side that has emerged in better shape and more optimistic, while the winners have been plunged into difficulties. In order to understand what has happened, we need to examine the referendum in light of the evolution of the United Kingdom and the changing place of Scotland within it. Scotland should be seen as a case of the kind of spatial rescaling that is taking place more generally across Europe, as new forms of statehood and of sovereignty evolve. Scottish public opinion favours more self-government but no longer recognizes the traditional nation-state model presented in the referendum question.

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## Constitutional Traditions in Scotland

Since the late nineteenth century union, there have been three main constitutional traditions in Scotland. The first is unionism, a distinctly British doctrine developed after the union of Scotland and England in 1707.<sup>1</sup> Unionists are strongly committed to the maintenance of the United Kingdom and historically favoured a unitary parliament at Westminster, with no concession of political power to the nations of Ireland, Scotland or Wales. Yet unionists are not Jacobins in the continental sense and have always recognized the reality of national diversity within the state. So they have no problem with the vocabulary of nation to describe Scotland, nor with the symbols of nationality or the existence of a distinct civil society. They accepted the perpetuation of distinct Scottish institutions, including the criminal and civil law and the education system, which never unified across the United Kingdom. It is precisely because they accept that Scotland is a nation, however, that they historically refused to countenance autonomy, arguing that the combination of nationality and self-government would inevitably lead to separation.<sup>2</sup> During the twentieth century, the Labour Party added another element to the unionist argument, that the unitary state was essential in order to secure social welfare.

The second tradition is that of Home Rule or, as it was called from the mid-twentieth century, devolution. This favours Scottish self-government within a reformed United Kingdom and was first formulated in the late nineteenth century following demands for Irish home rule. As adapted by the Liberal Party, it took the form of a federal reform, starting with Ireland and Scotland but eventually intended to lead to Home Rule All Round. The idea had significant support in the Labour Party and some support even within the Conservative Party. Although it has consistently been the preferred choice of a majority of Scottish electors (in surveys since the 1960s and when it has been presented at elections), the main parties subordinated it to their unionist preferences until the late twentieth century.

The third tradition is the independentist one, seeking a separate nation state. This was insignificant before the 1930s, when the first independence-seeking parties emerged and was not a serious option before the 1970s when the Scottish National Party (SNP) began

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1. Colin Kidd, *Union and Unionisms*, Cambridge: Cambridge University Press, 2008.

2. Michael Keating, *The Independence of Scotland*, Oxford: Oxford University Press, 2009.

to make electoral progress. Usually, independence has been placed within a broader framework, such as the Commonwealth or, in recent decades, the European Union, rather than being presented as radical separatism. As a result, the lines between advanced home rulers and moderate independentists have been blurred. Within the SNP there was a division between the 'fundamentalists' who wanted complete independence immediately, and the 'gradualists', who were happy to proceed first with devolution.

After a failed attempt in the 1970s, devolution finally came about in 1999, after Labour had returned to power with a large majority. It was the experience of being governed for eighteen years by a Conservative Party for which Scots had not voted that proved the decisive factor and the 1997 referendum providing for devolution was carried by a majority of three to one. Unionists accepted the verdict so that the unionist and home rule traditions appeared to converge. For their part, the fundamentalists and gradualists in the SNP put aside their differences on the grounds that they could travel together in the next stage, towards independence. It was not long, however, before a new 'middle ground' emerged in the form of demands for further devolution, sometimes known as 'devolution-max' or 'devo-max'. The Scottish Parliament established in 1999 has extensive and exclusive powers over wide areas of domestic policy but lacks substantial fiscal powers and powers over redistributive welfare payments and these are the core of further devolution demands.

## The Nationalists in Government

The Scottish Parliament is elected according to the added-member system of proportional representation, which makes it difficult for any one party to gain a majority of seats. After the elections of 1999 and 2003, coalition governments of Labour and the Liberal Democrats were formed. In 2007, the SNP came ahead by one seat and formed a minority government. They had promised to hold an independence referendum but were unable to gain the necessary parliamentary support. The unionist parties (Conservative, Labour and Liberal Democrat),<sup>3</sup> on the other hand, established their own commission (the

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3. Unionist is a term historically used for the Conservative Party, and refers to its support for the union with Ireland and its merger with the old Liberal Unionists who split from Gladstone over Irish home rule. In Scotland, the term Unionist was used instead of

Calman Commission) and pushed through a modest extension of fiscal powers for Scotland, as their response to the SNP threat.

In 2011, the SNP achieved the difficult feat of gaining an absolute majority and pressed ahead with their independence plans. It is important to note that this victory was not the result of an increase in Scottish identity among the population, or even in support for independence. It has long been the case that most Scots, whether nationalist or unionist, feel more Scottish than British but this number was actually falling both in 2007 and in 2011 (according to the Scottish Social Attitudes Survey)<sup>4</sup>. Support for independence had historically run at around 20 per cent but during the 1990s it had increased to around 30 per cent, in reaction to the domination of British politics by the Conservatives, who had steadily lost support in Scotland (and lost all their remaining seats there in 1997). In 2007 and again in 2011 independence support was falling,<sup>5</sup> one reason apparently being that voters thought that the SNP were doing a good job making devolution work. The SNP victory was, rather, due to the perception that they were a competent government, which was able to take decisions on its own, without looking to Westminster as Labour had seemed to do. The 2011 victory did, however, give the SNP a mandate to proceed with an independence referendum, although this is a matter reserved constitutionally to Westminster.

It was the confidence that there was no majority support for independence that prompted the unionist parties accept the SNP challenge and agree to a referendum as a means of settling the question. The 2012 Edinburgh Agreement provided that power be given to the Scottish Parliament (under section 30 of the Scotland Act) to hold a referendum but on conditions. The power was temporary, expiring after 2014. There would be only one question, on independence, and the question should be a clear one, which would specify the choice of independence or union, with no second option for enhanced devolution. This was significant because opinion polls indicated that such a 'devo-max' option was the one supported by the largest number of

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Conservative until 1965. Its adoption by the Labour Party is recent and perhaps surprising in view of its historic connotations. The Liberal Democrats are usually now described as unionist although they themselves insist on their Gladstonian roots and call themselves federalists.

4. <http://www.natcen.ac.uk/our-research/research/scottish-social-attitudes/>

5. Scottish Social Attitudes Survey <http://www.natcen.ac.uk/our-research/research/scottish-social-attitudes/>

voters and the second preference of most others. The SNP had indicated that, while devo-max was not its policy, it would have allowed it on the ballot paper.

The table shows the distribution of preferences in 2012. The first option is equivalent to independence, although not using that term has raised support above the normal level for the times. The second option corresponds to most definitions of devo-max, while the third option is the status quo.

Constitutional Options 2012	Per Cent
Scottish Parliament make all decisions	35
UK Government decide defence and foreign affairs, Scottish Parliament the rest	32
UK Government decide taxes, benefits and defence and foreign affairs	24
UK Government decide everything	6

Source: Scottish Social Attitudes Survey.

The ensuing referendum question was devised by the Scottish Government and put before the independent Electoral Commission, which made some minor changes and there was rapid agreement between the two sides on 'Should Scotland be an independent country? Yes/No.' This is certainly a clear question as far as the words go. The meaning, however, is less clear. Independence is a difficult concept in the modern world and the choice of 'country' rather than 'state' might be questioned (although the Electoral Commission tested it with the public, who seemed to have little difficulty).

## The Battle Ground

The Edinburgh Agreement resolved the legal and constitutional issue from the outset, so that this hardly featured in the debate, except in regard to Europe. Another remarkable feature of this referendum campaign was the lack of distance between the two sides in the vision of Scotland they presented. This in large part explains the fact that the independence question did not provoke a deep social division within Scotland but rather disagreements on how to get to the same place. This is, to an extent, true even on the constitutional issue itself. The 'third way' option of devo-max had been ruled out by the unionists and was not the policy of the nationalists but, knowing that this is

where public opinion clustered, both sides sought to get as close to this position as possible.

On the Yes side, the SNP and the Scottish Government presented a rather attenuated form of independence, which retained much of the infrastructure of the union. Critically, Scotland would retain the Pound Sterling in monetary union with the rest of the United Kingdom (rUK) although this would entail surrendering control of monetary policy and entering into a fiscal pact with rUK, similar to arrangements in the Euro zone.

For their part, the unionist parties abandoned their defence of the status quo and set up commissions to produce plans for further devolution. The most far-reaching were those of the Liberal Democrats, who have a long commitment to a federal United Kingdom and who proposed to devolve all income tax and various other taxes. The Conservatives also proposed devolution of income tax, while Labour was the least adventurous, agreeing only to devolve a quarter of income tax (in addition to the half that is already due to be devolved in 2016 under the Calman proposals). All of these proposals were short of devo-max as defined in the table above, but they did represent a move towards the centre.

Two crucial discursive elements featured throughout the campaign. The first was that of Scotland and which side incarnates it better. This is natural ground for the nationalists but there is a strong element of national distinctiveness in Scottish unionism, which has never denied that Scotland is a national reality with its own culture and traditions but argues that these can be preserved better in the union. Most unionists feel strongly Scottish, except for a small minority (well under 10 per cent of the voters) who feel only British. Faced with the SNP challenge, however, the unionists have lost their instinctive sense of Scottishness and tended to stress Britishness as somehow the superior identity, incarnating fundamental values such as democracy, fairness and solidarity, apparently reducing Scottishness to a mere cultural variation. This was particularly the case with the Labour Party, who insisted that values of fairness and solidarity were somehow essentially British.<sup>6</sup> The Conservatives, for their part, had lost the ability to talk the language of Scottish patriotism which they possessed a generation ago and had, partly as a result, been reduced to a minor-

6. The best exposition of this Labour view of Britishness and of welfare unionism is in Gordon Brown, *My Scotland, Our Britain*, London: Simon and Schuster, 2014.

ity party widely seen as not quite Scottish. The Yes side, for its part, projected a modern, civic notion of Scottish identity shorn of ethnic particularism, embracing immigration and multiculturalism and sustained by groups such as *Africans for an Independent Scotland*, *Asian Scots for Independence* or *Scots Asians for Yes*.

The second field is union, natural territory for the unionists, but they have in recent years lost their understanding of what unionism means in the United Kingdom. Unionism historically succeeded in the United Kingdom by taking different forms in different parts of the kingdom, resting upon different social alliances. Any effort to unify and essentialize it is doomed to fail, as did the 'Britishness' campaigns of the New Labour Government (1997-2010). First Minister and SNP leader Alex Salmond captured the old unionist spirit much better, and was able to make the historical and literary allusions to sustain it. He even famously declared that Scotland was currently part of six unions – political, monarchical, monetary, defence, European and social – and that the nationalists proposed to withdraw only from the political union, retaining the other five. The monarchical union is not problematic as it stems from an event in 1603 when the king of Scotland ascended to the throne of England (not the other way round). The British monarch is also head of state of some fifteen independent countries in the Commonwealth. The social union was not clearly defined, and might cover anything from the fact that families would still retain links across the border, to the idea of common social rights. The other ones are discussed below. All of this allowed the Yes side to shrug off accusations of separatism and bring reassurance to voters.

Because the issue of the right to self-determination had been resolved (at least on a temporary basis) by the Edinburgh Agreement, the campaign focused on the social, economic and security implications of independence and union.

## **Economy and Finance**

The most important questions revolved around the economic consequences of independence. Scotland is neither a rich nor a poor part of the United Kingdom; its Gross Domestic Product per capita has in recent years been around 97 per cent of the average, lower than London and the South East but higher than other regions. The SNP has long argued that, with independence, it could join the 'arc of prosperity' of small, successful states in north-western Europe, which at one time

included the Nordic countries and Ireland. After the economic crisis of 2008 and the crash in Ireland and Iceland, unionists lampooned this as the 'arc of insolvency', an equally misleading expression, since the other Nordic states came through the crisis rather well. In fact, the experiences of small northern European states have been rather different from each other, with both positive and negative lessons for Scotland but this was not explored in great detail.<sup>7</sup> There were references in the Scottish Government's independence white paper<sup>8</sup> to social investment and partnership but these were not well developed.

Unionists laid great stress on the risks of independence. They insisted that an independent Scotland would not have been able to bail out its banks in 2008 and that two of the largest banks, Royal Bank of Scotland and Bank of Scotland are both officially Scottish-based. In fact, both have most of their operations in England and, since the crash, are largely owned by the UK Government; in addition Bank of Scotland is part of the larger Lloyds conglomerate. The SNP remained vulnerable on the point, however, since it had supported the over-expansion of the banks since the 1990s and was not prepared to say that the banks should be allowed to fail. The arguments about the risks of independence reached a peak in the last week of the campaign, when the No side encouraged a stream of banks and businesses to issue dire warnings about relocating and disinvesting – some supermarket chains even warned that they would put up prices if Scotland voted Yes.

There was an extensive argument about public finances. For historic reasons, Scottish levels of public expenditure have been higher than the UK average at least since the 1960s. In the late 1970s, in anticipation of devolution (which did not happen at that time) a formula was introduced (the Barnett Formula) providing that most Scottish expenditure would take the form of a single block, which would vary according to increases or decreases in English expenditure on the same functions.<sup>9</sup> So future changes in expenditure would be proportional to population but the historic base would remain. Over time, this should have produced convergence in expenditure levels but in practice Scottish expenditures remain significantly higher, leading to some

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7. It is analysed in Michael Keating and Malcolm Harvey, *Small Nations in a Big World. What Scotland Can Learn*, Edinburgh: Luath, 2014.

8. Scottish Government, *Scotland's Future. Your Guide to an Independent Scotland*, Edinburgh: Scottish Government, 2013.

9. Michael Keating. *The Government of Scotland. Public Policy after Devolution*, 2<sup>nd</sup> edn., Edinburgh: Edinburgh University Press, 2010.



grievance elsewhere in the UK. After devolution, Barnett continued in the form of a block grant to the Scottish Parliament, accounting for almost all its revenues.

Unionists argued that, without Barnett, Scotland could not pay for its own public services. Effectively, they said that Scotland got more than its share of spending and that, after a No vote, this would continue. This is not an argument that plays well in England or in Wales (which does badly out of Barnett) and this caused problems for the UK parties there. The Labour Party also argued that Barnett distributes revenue according to need, which is in fact not the case.<sup>10</sup> The Yes side responded that, taking North Sea oil revenues into account, Scotland has generally paid its own way and that its public finances, while notionally in deficit since the crisis of 2008<sup>11</sup>, would not be as bad as those of the United Kingdom. Oil has featured in the independence debate since the 1990s. It is generally accepted that some 90 per cent of the oil reserves are in Scottish waters, a proportion that might even increase as new discoveries are exploited west of the Shetland Islands. The weakness in this argument is that the Scottish Government also planned to set up an oil fund like that in Norway, to use the oil revenues to even out economic fluctuations, and to build long-term reserves. They could not simultaneously be used to cover current expenditure needs.

In principle, an independent Scotland could have three currency options: to adopt its own currency; to enter the Euro; and to share the Pound Sterling with rUK. The SNP (and hence the Scottish Government) adopted the last of these, although the Greens and the left of the independence movement did not. By the time of the Edinburgh Agreement, experience in the Euro zone had shown that monetary union is very difficult without a measure of fiscal union, at least in the form of controls over deficits and debt. Fiscal union in turn is difficult without political union. The Scottish Government accepted much of this reasoning but proposed a monetary union in which Scotland would share the currency, with a role in the management of monetary

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10. Scottish Labour Party, *Powers for a Purpose. Strengthening Accountability and Empowering People*, Glasgow: Scottish Labour Party, 2013, p.37, 'An equitable system of grant distribution – to Scotland, and indeed Wales and Northern Ireland – is a key aspect in the UK's social union.'

11. There is not an actual deficit since Scotland must balance its budget. These are notional figures calculated by independent civil servants in the series *Government Revenues and Expenditures in Scotland*, which adds up all public expenditure and revenue in Scotland.

policy. The UK parties, which otherwise tended to avoid saying what they would do in the event of a Yes vote, made an exception here and declared that they would not countenance a monetary union under any circumstances. The SNP insisted that this was a bluff and that rUK would realise that it was in its own interest to have such a union. While SNP leaders refused to say what their 'Plan B' was in the event that rUK did refuse a monetary union, it was tacitly accepted that in that case they would use the Pound unilaterally. This might have been possible but it would have left Scotland with no influence at all over its monetary policy.

## Welfare

Another central issue in the campaign was welfare. This is natural territory for the Labour Party, but has a broad appeal across Scotland, where most of the political parties (Labour, SNP, Liberal Democrats, Greens and the leftist Scottish Socialist Party) are in the social democratic fold. The UK Government has been undertaking a radical reform of welfare, which has become increasingly controversial. The SNP combines a commitment to social democracy with a pro-business stance in a way that has caused some tensions in the past. During the referendum campaign, however, it staked its ground on defending the post-war British welfare settlement, accusing Labour of not being able to stand up for Scotland or for the poor. Again, the Nordic states, combining economic prosperity with social cohesion, were the inspiration. For its part, the Labour Party insisted that welfare was inherently British, as the UK state was needed to equalize conditions and provide against asymmetrical shocks and that affective solidarity was at the level of the British nation.<sup>12</sup>

The focus on welfare allowed the Yes side to extend the independence coalition well beyond the core nationalist constituency to embrace most of the non-Labour left, sections of the Labour Party itself, part of the trade union movement and a large swathe of the voluntary sector. There was a contradiction in the SNP position, since it also favoured cuts to corporation tax (to attract inward investment) and air transport taxation and promised not to increase other taxes, putting its 'Nordic' credentials into question.

Labour tried to exploit this contradiction but at the risk of raising questions about whether it would find the tax income to finance a social democratic welfare state if it were in power. Other elements of the Yes coalition were less inhibited, as its left-wing components rejected corporation tax cuts. This included the Green Party but also civil society groups like the Common Weal (the campaigning arm of the think tank The Jimmy Reid Foundation) and the Radical Independence Collective.

## Defence and Security

Defence is a sensitive issue within the SNP, which has a significant pacifist and, especially, anti-nuclear tradition dating from the 1960s. Indeed, many activists had left the Labour Party and joined the SNP over precisely this issue. Before the referendum, the party had changed its historic opposition to NATO membership, and thus gained credibility for its independence project by providing assurances about security and reducing risk. This, however, provoked one of the few open divisions in the party in recent years and three of its parliamentarians left the party to sit as independents. Even more sensitive is the question of nuclear weapons. The UK's nuclear deterrent (Trident) is based entirely in Scotland and a decision is imminent on whether and how to renew it. SNP policy is that Scotland should be nuclear-free, meaning that the Trident system would have to be withdrawn. Since there is no obvious place elsewhere in the UK to put the base, this could have caused real problems. There were suggestions that Trident could be traded off against keeping the Pound but the sensitivity of the nuclear issue within the SNP made this difficult and the unionist parties seemed determined not to compromise on the currency.

The Scottish Government's white paper proposed that Scotland would have military forces based on existing UK assets. There would be a naval base on the west coast, using the current Trident facilities. Scotland would meet its NATO commitments and look after home defence. Other analysts, however, proposed a more radical reformulation of defence policy, based on a limited set of strategic goals including protection of the oil fields (moving the naval base to the east coast), filling the gap in NATO surveillance left by the UK's decision to withdraw its Nimrod aircraft, and not sustaining an expeditionary capacity. These issues did not, in practice, feature prominently in the campaign.

## Europe

One issue that did keep on coming back was whether, and how, Scotland could be a member of the European Union. After opposing UK membership of the (then) European Economic Community in the early 1970s, the SNP changed tack in the late 1980s and has since used Europe as an essential external support for an independent Scotland. By the time of the referendum, the SNP was the most strongly pro-European party in the United Kingdom. There were some early suggestions that an independent Scotland would automatically remain within the EU but by the time of Edinburgh Agreement the Scottish Government recognized that rUK would remain as the member state and Scotland would have to accede. Two mechanisms were suggested. Scotland could apply to join as a new member state using article 49 of the Treaty of European Union. Alternatively, given that the territory and people of Scotland are already in the Union, article 48 could be used to effect a treaty change recognising Scotland as the 29<sup>th</sup> member state.

The position of the No side was less clear. They did not explicitly say that Scotland would be excluded from the EU but came as close to this as possible. There were warnings that either procedure would require the assent of all existing member states and that some states might exercise a veto. It was usually implied that this would be Spain, fearing for the implications for Catalonia and the Basque Country. In fact the Spanish government was very worried indeed about the contagion of independence but never said that they would veto Scotland's membership of the EU. This would have been to admit that it was a precedent for Catalonia, something they were at pains to deny, pointing out the UK law allowed Scotland to vote for independence while Spanish law has no equivalent. At other times, unionists suggested that Scotland would have to leave the EU for a time and then might be readmitted. Finally, they argued that, even if Scotland were allowed in, it would have to join the Euro and the Schengen travel area and would lose the various UK opt-outs.

When challenged about the prospect of Scotland being excluded from the EU, unionists always retreated, but then shortly afterwards would return to the same point. There are good reasons for thinking that Scotland would be in the EU. The first is a matter of democratic principle and European practice. An independent Scotland would be recognized by its former host state, the United Kingdom so there is no reason for any other European country withholding recognition

(there is certainly no precedent for this). As an independent, recognized democracy compliant with the Copenhagen entry criteria and the *acquis communautaire*, Scotland could hardly be excluded just because it had exercised a democratic, legal and constitutional right. In a continent where nationality claims have proved so difficult to resolve, it would give a very bad signal to refuse the case of a nation that had addressed its national question in such an eminently peaceful and democratic way. The second reason for Scotland being allowed in is a matter of mutual convenience. Creating a gap in the single market and other European structures would be against the interests of rUK, other member states, business and citizens. It would be particularly absurd to spend time and effort disentangling Scotland from the EU, only to spend more time and effort getting back in again.

The Yes side had another argument to deploy, in the promise by the Conservative Party to have a referendum in 2017 on whether the UK should withdraw from the EU. Independence supporters argued that Scotland risked being dragged out of Europe against its will if, in such a referendum England voted to come out and Scotland to stay in. Opinion polls suggested that this was a real possibility. There is less visceral Euroscepticism in Scotland, the United Kingdom Independence Part (UKIP) is a minor presence and there is a shared commitment across Scottish civil society to the European project. Being pro-European does not carry the political penalty it does in England, something that the SNP has exploited to the full.

## The Campaign

The campaign was conducted according to agreed rules, which recognized two official bodies, *Yes, Scotland* (including the SNP, the Greens and Scottish Socialists) for independence and *Better Together* (including the Conservative, Labour and Liberal Democrat parties) for the union. There were spending limits for each side and for the political parties and other campaign groups. It had been expected that spending would favour the No side, as they had support of business and wealthy backers but the fortuitous circumstance that an independence-supporting couple from Ayrshire won £161 million in the Euromillions lottery levelled the field. They provided some 80 per cent of the finance for *Yes Scotland*.

What was not anticipated at the beginning of the process was the high degree of public engagement that developed. This was less

the work of the official campaigns and the parties than of groups within civil society. Indeed, the campaign operated at two distinct levels. There was the 'air war' by the official Yes and No campaigns, marked by a mass of statistical evidence and carried on through the printed and broadcast media. There were two debates between Alex Salmond and Alistair Darling (former Labour minister and leader of the No campaign). Darling was adjudged the winner of the first and Salmond of the second. At another level was the 'ground war' fought in communities and through social media, which largely escaped the control of the two official campaigns. This was marked by an extraordinary level of engagement – it was estimated that some ten per cent of the population had participated in public meetings. Here Yes supporters, including those outside the SNP, were omnipresent and the No campaign strangely absent. The result was a public debate about the future of the country going well beyond narrow constitutional questions and which reflected the lack of trust in conventional politics found right across Europe these days. The Yes side was much more present and visible in this ground war, while the No side concentrated on the official campaign.

Generally speaking, the business community favoured a No vote but organized business was less clear. The main employers' body, the Confederation of British Industry (Scotland) (CBI) registered as No supporters but this was met with a spate of resignations from public bodies (including the BBC and universities), which are not allowed to take political positions, as well as some independence-supporting business people. It then turned out that the CBI had not registered properly in any case, and the incident did it no credit. A smaller group, *Business for Scotland* supported Yes. Research on business attitudes indicated that, while business was generally against independence, those firms that depended on UK markets (as opposed to Scottish or global ones) were particularly concerned.<sup>13</sup> The trade unions were divided, leading most of them to adopt a position of neutrality. Some trade unionists supported *Labour for Yes*, a group of Labour Party dissidents in favour of independence. University academics were mostly neutral but there were organized groups on each side, *Academics for Yes* and *Academics Together*. Smaller groups were active in other professions. There was

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13. David Bell and M. McGoldrick, *Scottish Independence: Analysing Views from the Oil and Gas Sectors*, [www.futureukandscotland.ac.uk](http://www.futureukandscotland.ac.uk), 214. Brad Mackay., *The Scottish Independence Debate: Evidence from Business*, [www.futureukandscotland.ac.uk](http://www.futureukandscotland.ac.uk)

widespread support for Yes in the voluntary sector, although most groups did not take sides officially.

Much of the detailed argumentation came not from the two campaign groups but from the two governments, which were able to use their civil servants to prepare their positions. This raised some delicate constitutional issues, given the convention that civil servants are politically neutral and must serve successive governments of different persuasions. On the other hand, there is the convention that they must serve the agenda of ministers. Both governments took the view that it was right for their civil servants to follow their agenda, although there was more explicit political support for this in the case of the UK, as the issue of Scottish independence is hardly controversial at Westminster as it is in Scotland. The Scottish Government produced a 649-page white paper setting out the case for independence<sup>14</sup>, while the UK Treasury issued a series of Scotland Analysis papers.<sup>15</sup>

The most notable feature of the campaign was the trend in opinion polls, with a twenty-point advantage for the No side at the beginning of the campaign disappearing by the last week, when the two sides appeared evenly balanced.<sup>16</sup> Clearly, the Yes side had won the campaigning if not the final vote. In the last weekend, there were even polls showing a small lead for Yes (albeit within the margin of error), which caused panic in the No side. Business at Westminster was suspended to allow MPs to decamp to Scotland and former Prime Minister Gordon Brown intervened to persuade the leaders of the three unionist parties to make a 'vow' that, if No won, then substantial additional powers would be delivered to Scotland in advance of the next UK General Election in May 2015. Precisely, the promised to produce agreement on a package by 30 November (St Andrew's Day), a firm programme by 25 January (Burns Night) and a bill before the UK General Election in May 2015. This represented a major shift since the unionist side, having refused a second question on additional powers (or devo-max) in the referendum, now seemed to changing the meaning of No to mean exactly this – after 20 per cent of the electors had already voted by post.

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14. Scottish Government, *Scotland's Future*.

15. <https://www.gov.uk/government/collections/scotland-analysis>

16. The trends can be followed in *What Scotland Thinks*, <http://whatscotlandthinks.org/>

## The Outcome

The final vote was 45 per cent in favour and 55 per cent against independence. This represents a clear victory for No but by a much narrower margin than originally anticipated. Indeed we might wonder whether the unionist parties would have accepted the Edinburgh Agreement if they had known that the polls would narrow so much.

Support for Yes and No was spread across all social categories and regions but with some significant differences. Pending the results of the referendum study, we must rely here largely on opinion polls during the campaign. The biggest difference is between those born in Scotland and those born elsewhere in the United Kingdom. Native-born Scots were about twice as likely as the latter to vote Yes (which still means that about a quarter of the English-born support independence). Those born outside the UK (mostly Commonwealth and EU citizens) voted more like the native Scots. Men register about ten per cent more support for independence than women, a finding that has been consistent for a long time. Lower income people and those living in deprived neighbourhoods are more likely to vote Yes than are the more affluent. Both of these findings are related to risk aversion, women being more risk-averse than men (for reasons we do not yet understand) and lower income people having less to lose. There is an age gradient, with people over 65 voting massively No, although the very youngest (between 16 and 18) do not seem to be strongly pro-Yes.

## The Aftermath

The result was a clear victory for No, which appeared to settle the issue for a generation. Politically, however, it appeared more of a victory for Yes, who looked in better form afterwards. Indeed the curious spectacle is that the losing side behaved like winners while the winners behaved like losers. Membership of the SNP increased more than fourfold within a few weeks, while the pro-independence Greens also massively expanded. The leader of the Scottish Labour Party, on the other hand, resigned, accusing the UK Labour party of treating the Scottish one like a branch office. Some No campaigners, unwilling to accept responsibility for losing their massive lead, suggested, as they had during the campaign, that they had been subjected to intimidation by Yes supporters. Academics for Yes had suggested that intimidation had even been practised within universities. The only evidence



for this was an incident in which an SNP minister had complained about a professor who ran a neutral forum on the referendum also appearing on a No platform. The worse atrocity of the campaign was an egg thrown at Labour politician Jim Murphy. The intimidation story was, rather, an effort to create a narrative about foul play in order to sustain unionist morale.

It was also a response to the fundamental change the referendum produced in Scottish politics. In the days before devolution, Scotland was run by an enlightened bureaucracy in the Scottish Office, under the aegis of the Secretary of State for Scotland, a Cabinet minister of the ruling party. Their role was to apply UK policy in Scotland, making whatever adjustments were necessary to sell it; and to lobby for Scotland within the UK Government. There was a democratic deficit in that parliamentarians at Westminster paid little attention to Scottish affairs and would vote through policies for Scotland, even when they might rebel on equivalent English matters. Scottish ministers were not in Scotland for most of the week, so that ministerial control was weak. Scotland did quite well in the distribution of public spending, for historic reasons and because of the role of the Secretary of State in the UK Cabinet, while regional policy diverted significant investments to Scotland. Until the 1970s, local government, increasingly dominated by the Labour Party, distributed patronage in the form of publicly-owned houses and jobs. This all ensured that Scotland was rather a depoliticised space, especially when Labour was in power. During the eighteen years of Conservative government between 1979 and 1997, a sense of political alienation grew as Scotland was faced with radical policies for which it had not voted, and the Conservatives steadily lost support and in 1997 won no seats at all in Scotland. The Scottish Parliament did restore legitimacy for government in Scotland and reduced alienation, but was not noted for bold policy innovation and the UK parties remained dominant. The referendum campaign changed all this, repoliticizing the country to an extraordinary degree and shaking the old political and administrative classes. It is this that explains their reaction to the campaign, even if they won the vote. The constitution may not have changed but the political system did.

Since the 1980s, Labour has been the only party with a substantial presence and able to win victories in all parts of Great Britain.<sup>17</sup>

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17. Great Britain consists of England, Scotland and Wales. The United Kingdom extends to Northern Ireland, which has its own party system.

It has thus played a key role in keeping the political system together. Now it faces a serious challenge from the SNP, on both the ideological flank, as another social democratic party, and on the territorial flank, as the party standing up for Scotland. Labour is particularly discomfited since it knows that over a third of its voters opted for Yes and it lost traditional working class industrial strongholds like Dundee, Glasgow and North Lanarkshire, all of which voted Yes. As the political centre ground has shifted in the direction of support for more Scottish self-government, the Labour Party still finds itself on the defensive, unable to take leadership of the issue.

The SNP, for its part, is positioning itself not just as a party for independence but as an actor in UK politics. Alex Salmond resigned as leader after the referendum and subsequently announced plans to return as a Westminster MP in the General Election of 2005. He also indicated that the SNP would be open to cooperation with other parties at Westminster, excluding only coalition with the Conservatives. This recalls the strategies of the Basque Nationalist Party and the Catalan *Convergència i Unió* in the past, of negotiating concessions in Madrid in return for parliamentary support, although in the case of the SNP it is only the Labour Party that would be available. In this respect, it has a precedent in the strategy of the Irish Party in the late nineteenth and early twentieth centuries, keeping alive home rule hopes in Ireland while assisting the British Liberal Party. At UK level, Labour might be open to deals with the SNP but it could pose problems for Labour in Scotland, which remains in fierce competition with the SNP for essentially the same share of the electorate.

## **The Smith Report**

Following the referendum, the unionist parties sought to keep their promise for more powers, appointing a facilitator, Lord Smith, to broker an agreement in the agreed timetable. This was widely criticized as an effort by the Westminster parties to agree a deal among themselves, with no time for public input or indeed a mature consideration of how their proposals might work. As the independence issue had been debated as such length while more devolution had been excluded from the Edinburgh Agreement, this was interpreted as a return of the 'old style' politics. The SNP proposal asked for more or less all powers over domestic policy, while declaring that it would accept whatever it was offered, even if fell short of its full demands. It

did not, therefore, put forward a realistic set of proposals that might have allowed it to meet the unionists half way. The three unionist parties put forward the proposals they had broached in their own internal commissions, ruling out a more fundamental consideration of matters like the best allocation of taxation and welfare powers.

Smith reported on 28 November 2014.<sup>18</sup> Its main recommendation was that the Scottish Parliament should collect all income tax on salaries in Scotland, with discretion over the rates but not the base nor the threshold at which tax would be paid. Income taxes on dividends and saving would still accrue to the United Kingdom, as would tax on inheritance and capital gains; national insurance, also levied in incomes, would also be retained. Half of Value Added Tax in Scotland would be assigned to the Scottish Parliament, which would also be able to vary air passenger taxation. There would be some limited devolution of welfare benefits but the main benefits, which are being consolidated into a new Universal Credit, would be reserved for the centre. These proposals were welcomed by the business community but criticized by trade unions and the voluntary sector as not giving Scotland the power to promote social and economic equality or to look at taxes benefits and labour markets together. They are a long way from devo-max as that is normally understood. In January 2015, the Smith proposals were published as draft legislative clauses in a document with the optimistic subtitle 'An Enduring Settlement'. A widespread view in Scotland was that these, too, had been drawn up in haste and would probably not be accepted by the next UK Parliament after the elections of May 2015, so that the issue remains live.

## **EVEL and Barnett**

The Scottish referendum debate had, meanwhile, sparked a reaction in England. English opinion had hitherto been rather tolerant in respect of Scotland, accepting devolution and, to some degree, even relaxed about the prospect of independence. The campaign saw a hardening of English opinion, not so much about Scottish self-government but about the role of Scotland within UK politics, focusing on two issues. The first is the West Lothian Question, or the fact that Scottish MPs at Westminster can vote on purely English matters while the equivalent

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18. The Smith Commission, <https://www.smith-commission.scot/>

matters in Scotland are the competence of the Scottish Parliament. The Conservative Party is sympathetic to the West Lothian complaint, since it has only one Scottish MP, and has proposed to address it though English Votes for English Laws (EVEL). This would mean that only English MPs would vote on laws that only affect England. Some unionists have long opposed this on the grounds that it would create two classes of MP and rupture the unity of Parliament. Arguably, however, there are already two classes of MPs, since English MPs cannot vote on matters that have been devolved to the Scottish Parliament. Labour is vehemently opposed to any attempt to curtail the voting rights of Scottish MPs, which is not surprising because most of these are Labour. The same issue had tormented William Ewart Gladstone, when he had proposed home rule for Ireland in the nineteenth century and it was never resolved at that time. The Conservative-Liberal Democrat coalition had established a commission to look at these proposals under Sir William Mackay.<sup>19</sup> Its report recommended that English-only bills be considered by a parliamentary committee consisting of only English MPs (or English and Welsh ones where it was an England and Wales matter). The final vote, however, would be taken in the whole House of Commons, which could reverse any changes made in the committee. In January 2015, Conservative minister William Hague unveiled stronger proposals, which would give English MPs an effective veto over legislation affecting only England. There is an argument about how much difference any of this would make, since it has been rare for a government enjoying a majority in the House of Commons not also to have a majority among English MPs.<sup>20</sup>

The issue has, however become important for English Conservatives, who think that too many concessions have been made to Scotland and insisted that this be a condition for implementing the Smith proposals. Although the Hague proposals are not officially linked to implementation of the Smith report, in the minds of Conservative MPs, the link has been made.

The second issue is the distribution of funding among the nations and regions of the United Kingdom. As none of the three devolved territories so far has had significant tax-raising powers, all depend on transfers from Westminster. These are determined by the Barnett

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19. <https://www.gov.uk/government/organisations/mckay-commission>

20. In the post-war period it has happened only in the short parliaments of 1964-66 and February-October 1974.

Formula, which was introduced in the 1970s in anticipation of the devolution that never happened and retained afterwards to set most spending for Scotland, Wales and Northern Ireland, then governed by the respective Offices. Barnett takes existing expenditures as the base and then distributes any increases or decreases according to population, based on the equivalent increases or decreases in England. Historically, Scotland had higher spending levels than England or Wales for a variety of reasons. There were traces of an earlier population-based formula (the Goschen Formula) while spending had not been cut to reflect Scotland's falling relative population. Because of Scotland's strategic political position, successive Secretaries of State had been able to bargain in Cabinet and with the Treasury for extra spending, without cuts elsewhere in the allocation. The application of Barnett should over time have eliminated this advantage, since the population-based element would have become larger in relation to the historic element. In practice, this did not happen fully,<sup>21</sup> so that Scotland's expenditure differential survived to the present. There are two ways of looking at this. One could say that Scotland gets more than its 'fair share' of expenditure. On the other hand, if one counts North Sea oil receipts, Scotland over the medium term covers its expenditures, so that Scotland is subsidizing the poorer parts of the United Kingdom. Politically there seems to be an unspoken understanding that, as long as North Sea oil revenues cover the differential spending for Scotland, things will be left alone.

Whatever its real effects, Barnett has become short-hand for the complaint that Scotland gets more than its fair share of funding. During the referendum campaign, unionist parties had created a trap for themselves in arguing, in Scotland, that Scots get more than their fair share and that this would continue while arguing elsewhere that funding is distributed according to need. The latter claim, articulated by Labour, is patently untrue since needs do not, and never have, featured in the Barnett calculations. Both causes were taken up by Conservative MPs already uneasy over Europe and the Barnett question was also pursued in Wales. At a time of public expenditure retrenchment, this has become a zero-sum game. The unionist parties, in their 'vow' and in the Smith report, indicated that Barnett will continue to govern that part of Scotland's expenditure not covered by

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21. It is not clear why this is so, but there appears to be a failure fully to adjust for population, together with some 'formula by-pass' as Secretaries of State were still able to make a special case.

devolved taxation but it is not at all clear what this means in practice or how Barnett will be recalculated. There are currently no proposals for a needs-based formula to replace it.

## The European Context

One effect of the referendum campaign was to cement the image of Scotland as a pro-European country. Neither side questioned the desirability of membership of the European Union, only whether it could best be secured through independence or union. Following the referendum, the Scottish Government has emphasised the need to secure a stronger position for Scotland in European negotiations and in paradiplomacy in general. Like some other sub-state governments in Europe, the Scottish Government is able to participate in meetings of the Council of the European Union as part of the state delegation, by invitation of the UK Government on condition that it support a common bargaining position. The Scottish Government has called for 'direct' representation, but this is not possible for bodies other than member states; in practice it seems to mean guaranteed representation in the UK delegation. More difficult, perhaps, is securing a Scottish influence in European constitutional negotiate, at a time when the UK parties are committed to changing the UK relationship with Europe.<sup>22</sup> Whether it will be possible for the UK to re-negotiate its relationship is an open question but to the extent that it does, Scotland may not want to go along with this. Successive Scottish governments have had a positive view on migration, which goes against the UK parties' desire to restrict it. Yet the devolved governments have only been consulted on the 'review of competences' that has been seeking a UK position; they do not have a guaranteed say in the matter or a veto over changes.

The Conservative Party is committed to repealing the UK Human Rights Act, which incorporates the European Convention on Human Rights (ECHR, part of the Council of Europe) into UK law. This would create the anomalous position that the ECHR would be directly applicable in Scotland to devolved matters (since it is incorporated under the act setting up the Scottish Parliament) but not in reserved matters. If some Conservatives have their way and the UK repudiates the

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22. The Conservatives are committed to a broad renegotiation while even Labour and the Liberal Democrats appear to accept changes in migration policies that could entail treaty change.

ECHR altogether, then matters would be even more difficult. Yet the Conservative proposals so far on the Human Rights Act have totally ignored the difficulties in Scotland (and Northern Ireland).<sup>23</sup>

The Conservative Party further propose that, after negotiations with other member states, they would have a referendum in 2017 about whether the UK should stay in or withdraw from the European Union. Surveys have shown that voters in Scotland are not strongly pro-European but they are less anti-European than those in England. This is not because they have made the connection between Europe and Scottish independence that the SNP make. SNP voters are not more pro-European than others; if anything it is Labour voters in Scotland who support Europe.<sup>24</sup> There is not, however, the depth of anti-European feeling found in some other parts of the UK and no significant anti-European party.<sup>25</sup> Scottish civil society is strongly pro-European. There is therefore a realistic prospect that the UK could vote to come out of the EU but Scotland to stay in. The new First Minister Nicola Sturgeon has suggested that withdrawal from the EU should require the consent of all four nations in the United Kingdom; more realistically, such a scenario could re-open the question of Scottish independence to another referendum. This time, presumably, European institutional representatives would be less hostile to the Scottish case but it would still set an important precedent for other European cases.

## The Future of the State

The referendum may have buried the issue of Scottish independence for the time being but it has radically altered the internal politics of Scotland and the relationship of Scotland to the United Kingdom. Scotland has experienced its own form of protest against established parties and institutions – although paradoxically the SNP is itself a party of government and the Scottish Parliament an established in-

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23. The Conservatives, *Protecting Human Rights in the UK*, London: Conservative Party, 2014.

24. Michael Keating, *The Independence of Scotland*, Oxford: Oxford University Press, 2009.

25. In the 2014 European elections, the United Kingdom Independence Party (UKIP) won in the UK as a whole, with 27 per cent of the vote. In Scotland it came fourth, with 10 per cent, winning one seat.

stitution. Society has been repoliticized and new social movements have emerged; whether these can be sustained during more normal political times, without the spur of a referendum, remains to be seen. The constitutional issue can be seen as one of failed secession but one that has left the prospect of independence looking like a credible and realistic one. Alternatively, it can be presented as an instance of state rescaling, in which old ideas of the nation-state are giving way to a new and complex order of multiple layers of authority and policy-making.<sup>26</sup> It also represents an instance of a broader European phenomenon of repoliticization of the public space in the face of a dominant 'neo-liberal' ideology that has sought to put certain issues beyond public debate and contestation. This is not an issue that will go away any time soon.



## ABSTRACT

The Scottish independence referendum on 18 September 2014 produced an apparently decisive result, with 45 per cent for independence and 55 per cent against. Yet, it has not settled the constitutional issue. There was a huge public engagement in the campaign, which has left a legacy for Scottish and UK politics. Scotland has been reinforced as a political community. The losing Yes side has emerged in better shape and more optimistic, while the winners have struggled to formulate the better autonomy package they had promised. Public opinion continues to favour maximum devolution short of independence. Scotland is a case of the kind of spatial rescaling that is taking place more generally across Europe, as new forms of statehood and of sovereignty evolve. Scottish public opinion favours more self-government but no longer recognizes the traditional nation-state model presented in the referendum question.

**Keywords:** Scottish Referendum; independence; devolution; spatial rescaling.

## RESUM

Aparentment, el resultat obtingut pel referèndum per a la independència d'Escòcia del 18 de setembre de 2014 ha estat conclouent: un 45 per cent a favor de la independència i un 55 en contra. Tanmateix, la qüestió constitucional no ha quedat resolta. Durant la campanya s'ha generat un immens compromís públic que ha deixat un llegat per a les relacions polítiques entre Escòcia i el Regne Unit. Escòcia n'ha sortit reforçada com a comunitat política. Els perdedors, partidaris del sí, han quedat reforçats i encaren el futur amb optimisme, mentre que els guanyadors han de lluitar per complir la promesa de millorar l'autonomia escocesa. L'opinió pública segueix estant a favor d'una "devolució" màxima, propera a la independència. Escòcia és un cas particular dins de la tendència que s'està desenvolupant a Europa de reformular el concepte d'estat amb l'aparició de noves formes d'estat i d'evolució de la sobirania. L'opinió pública escocesa estava a favor de més autogovern però no va voler acceptar el tradicional model d'estat nació que la pregunta del referèndum li va oferir.

**Paraules clau:** referèndum escocès; independència; devolució; noves formes d'estat.

## RESUMEN

Aparentemente, el resultado obtenido por el referéndum para la independencia de Escocia del 18 de septiembre de 2014 ha sido concluyente: un 45 por ciento a favor de la independencia y un 55 en contra. Sin embargo, la cuestión constitucional no ha quedado resuelta. Durante la campaña se ha generado un inmenso compromiso público que ha dejado un legado para las relaciones políticas entre Escocia y el Reino Unido. Escocia ha quedado reforzada como comunidad política. Los perdedores, partidarios del sí, han salido reforzados y encaran el futuro con optimismo, mientras que los ganadores tendrán que esforzarse para poder cumplir la promesa de mejorar la autonomía escocesa. La opinión pública sigue estando a favor de una "devolución" máxima, cercana a la independencia. Escocia es un caso particular dentro de la tendencia que, de forma más general, se está desarrollando en Europa de reformular el concepto de estado con la aparición de nuevas formas de estado y de evolución de la soberanía. La opinión pública escocesa estaba a favor de más autogobierno pero no quiso aceptar el tradicional modelo de estado-nación que le ofrecía la pregunta del referéndum.

**Palabras clave:** referéndum escocés; independencia; devolución; nuevas formas de estado.