

SCOTLAND

The future of the union

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The Scottish electorate is divided down the middle on the question of independence. A federal settlement based on the principles of solidarity and subsidiarity offers a route forward. Labour's future in Scotland depends on its ability to describe the kind of society progressive constitutional change can deliver.

This article was written against a rapidly changing political landscape in Scotland. Almost every day brought a new development. In late March 2021 the Report from the Committee on the Scottish Government Handling of Harassment Complaints and the Report from James Hamilton, the Independent Advisor on the Scottish Ministerial Code, were published; two days later Alex Salmond launched a new political party. Not an untypical week in Scottish politics.

This article will outline how Scottish politics has developed since devolution. It will look more generally at recent demands for independence and will consider whether devolving powers is a way of satisfying demands for more autonomy or a spur to greater dissatisfaction.

Scotland went into its seventh Scottish Parliamentary election during the most unusual circumstances of a global pandemic. What would have been expected to be a single-issue election on a second referendum now had to take account of dealing with and recovering from the pandemic.

Background

For the past ten years being politically active in Scotland has felt like being at the centre of a maelstrom. Since 2011, when Alex Salmond's Scottish National Party (SNP) became the first ever majority government in the Scottish Parliament, it has been hard to draw breath. The following three years were one long referendum campaign.

The 'No' campaign won the 2014 independence referendum by a margin of 10 per cent, but that failed to settle the issue even for a short time. One year later, at the 2015 general election, Scottish Labour was decimated, losing forty of its forty-one seats. Then in 2016 Labour lost most of its First Past The Post seats in the Scottish Parliament and was reduced from thirty-eight to twenty-four MSPs, putting it in third place. It was no longer the official opposition. Added to that, Labour has had five different leaders since the independence referendum and went into the 2021 elections with a leader who was only elected in February this year.

The Scottish Conservative Party has benefited from this, enjoying a new lease of life in the Scottish Parliament after losing all its Scottish MPs in the 1997 general election. Because of the regional list system in elections to the Scottish Parliament it was able to win eighteen seats in 2003, giving it once again a national profile. In 2016, it overtook Labour to become the official opposition. It too has had a turnover of leaders, with four changes since 2014.

The SNP may, on the surface, appear more stable, with only two leaders, Alex Salmond and Nicola Sturgeon, since 2014. But under the surface there have been significant problems. The SNP made a remarkable advance in the 2015 general election, winning fifty-six seats, up from six. It had a slight setback in 2017, when among its casualties was Alex Salmond.

Since at least 2017 tensions have been escalating around the route to independence and how a second referendum could be demanded from reluctant Tory prime ministers. Many members and supporters thought that the dominance of the SNP in the 2015, 2016, 2017 and 2019 elections gave it a clear mandate for a further referendum, particularly after Brexit. There was, however, a different approach, as in First Minister Nicola Sturgeon's statement in 2019 that she wanted a referendum to be permitted constitutionally under a Section 30 order, as the 2014 referendum was. Sturgeon describes this as the 'gold-standard' for such a decision. Meanwhile, many members supported the idea of calling a wild-cat referendum to claim legitimacy and others argued for a declaration of independence with no further discussion.

These divisions took on a different aspect when Alex Salmond was accused of sexual harassment. The procedures were so badly handled by the Scottish government that it resulted in Salmond being awarded £500,000 in legal expenses in August 2019. This was followed by a police investigation and trial in which he was found not guilty on twelve counts and not proven on one count, in March 2020. The subse-

quent inquiries into the handling of the investigation were critical of the process but did not find that Nicola Sturgeon had breached the Ministerial Code.

The divisions around Salmond and the referendum were causing considerable disquiet when further rows erupted over proposed legislation on gender recognition, which led to Joanna Cherry MP being sacked from the front bench in February 2021. She had developed a high profile during legal challenges to Brexit and was seen as part of the Salmond camp.

As Salmond remained suspended there was no quick way for him to return to the SNP or have a role in the important May 2021 election. Instead he launched the Alba Party. Within a few days it announced thirty-two candidates, four for each of the eight regional lists. These included two sitting SNP MPs and seven serving SNP councillors. In the event, however, the new party failed to win any seats. The SNP, with 64 seats, is one shy of a majority in the Scottish Parliament, but should be able to count on the Scottish Green Party (with 8 seats) for support on the issue of a referendum. With Nicola Sturgeon's position vindicated she can put the Referendum Bill before Parliament without having to set a date for the vote. She will have four or five years before she can be seriously challenged.

The issue of independence will continue to dominate politics while other issues that have an immediate impact on people's lives will take second place. Child poverty, chaos in education, lack of opportunities for young workers, drug related deaths, the falling life expectancy in some cities and so much more will be neglected while Scotland waits for independence.

Shrinking or disintegrating

It was over fifty years ago that Marshall McLuhan described the world as a global village. He coined the phrase well before the internet, Zoom meetings and mobile phones, but he had already recognised that local cultures were being subsumed into a global culture which has now come to include food, fashion, communication and even speech patterns.

The world has, however, gained 34 new nation states in the past thirty years, most of them in Europe. Many of these recent states have claimed a specific national identity based on all or some of history, language, religion and ethnicity. We appear to have simultaneously a reduction in differences and an increase in demands for self-determination on the basis of differences.

Leaders of modern independence movements are less likely to highlight ethnicity as an important factor in their demands. In Scotland, the SNP's approach is described as civic nationalism. But the role of national pride based on birth remains very strong. Research has found that most English migrants to Scotland 'felt that they

themselves could never become Scottish, although they recognised that their (Scots-born) children could be accepted as Scots, especially if they spoke with Scottish accents'. Birth was found to be the major factor in Scottish identity for both Scots and migrants. The authors state that: 'Celebrations of a new sense of Scottishness based on belonging rather than birth, ushered in by the new dawn of constitutional change, seem somewhat premature.'¹

As with other independence movements, the demand for an independent Scotland has led to the formation, on both sides, of broad alliances. Such movements bring together classes and interest groups which otherwise have little in common or whose aims are mutually antagonistic. In the run up to the 2014 Scottish Independence referendum the 'Yes' campaign was a broad alliance across the political spectrum from the left-wing Radical Independence Campaign to a group of leading businesspeople who formed Business for Scotland. On the other side, 'Better Together' had the support of the Tories, Lib Dems and Scottish Labour. The campaign took the politics out of politics.

Contrary to what many expected, the establishment of devolved administrations hasn't dampened the demand for independence. Support for the SNP grew significantly after the Scottish Parliament was introduced, and other political parties began making the case for more powers even before the Parliament had used the powers it already had. This resulted in the Scotland Acts in 2012 and 2016, which added to existing powers.

These piecemeal changes, however, never resulted in a settlement that drew a line under constitutional change. It seems that once the process of devolution starts it begins a process of identifying other powers that could make the administration more autonomous. The danger is that this results in countries neglecting the politics of vision because politicians are bogged down in structures. They can be more involved in discussing powers than using powers. Michael Keating has described this as 'second round reforms'. He writes that this 'suggests that constitutional politics will not be a once-in-a-generation phenomenon leading to a period of stability but part of the political mainstream'.²

Is it possible to have a resolution this side of independence? Or is it the case that once a country has started along the devolution route it becomes stuck in a cycle of demands and concessions from which independence is the only escape? Supporters of independence argue that if we get independence out of the way we can then get on with the real politics.

Creating a settled will

In 2012 a group of academics, trade unionists and political activists established the Red Paper Collective. The aim was to follow the previous *Red Paper for*

Scotland books published in 1975 and 2005.³ Facing the inevitability of an independence referendum, the group wanted to explore what form of government would best serve the needs of working people in Scotland. It identified three central concerns:

The redistribution of wealth throughout the UK.

The democratisation of the economy.

How to ensure solidarity while allowing subsidiarity.

Central to its discussions was the question of who owns the Scottish economy. John Foster has tracked the ownership of Scotland's industrial, financial and service sectors over decades and shows that very little is now owned in Scotland.⁴ Even the iconic whisky industry has largely been taken over by multinational companies. Decisions about Scotland's economy are made in boardrooms in London, New York and elsewhere across the globe, rather than in Holyrood or Westminster. Foster argues that ownership of the Scottish economy would not change as a consequence of independence, but it would cut Scotland off from access to the wealth created by Scottish workers that finds its way to the City of London.

While there have been movements struggling for political democracy going back centuries, much less emphasis has been placed on economic democracy. Its importance was better understood in the 1970s before the neoliberalism of right-wing economists gained hegemony across the political spectrum. Organisations such as the Institute for Workers' Control had significant influence in the labour and trade union movement, up to and including the 1983 Labour Party manifesto, which proposed the right for workers to convert their firms into co-operatives.⁵ Now it is accepted that countries compete with each other to invite multinational companies to exploit their national economies and workforces while the profits are repatriated to favourable tax regimes.

Resistance to vulture capitalism depends on a strong trade union movement. At their best, trade unions unite across the UK to win recognition and rights for their members. The recent dispute with British and Scottish Gas, owned by the same company, Centrica, involved resisting the employers' plans to fire and rehire employees with outrageous changes to their terms and conditions, including a longer working week. Such disputes reinforce the importance of strong trade unions across the UK, and underscore that solidarity is as important today as it was during the miners' strikes and the Upper Clyde Shipbuilders' dispute.

The Red Paper Collective is concerned both with solidarity and subsidiarity. Despite twenty-one years of devolution the UK remains one of the most centralised countries in the world. It is also the case that the Scottish government has made Scotland more centralised, by taking powers away from local government. An essential aspect of democracy should be that powers are held at the most appropriate level to be effective and accountable. That starts locally not nationally.

The Scottish labour movement as represented by the Scottish Trades Union Congress (STUC) and the Labour Party in Scotland has, through most of its history, supported some form of Home Rule for Scotland. The STUC, founded in 1897, first formally adopted a policy of support for a Scottish Parliament in 1914. The Independent Labour Party, which went on to help form the Labour Party, was from its inception in 1893 committed to Home Rule and played a prominent role within the Scottish Home Rule Association. The labour movement's demands were for a federal arrangement rather than for independence.

The labour movement's position, unlike the nationalist one, acknowledged the bonds the British working class had forged in two centuries of political struggle and recognised shared class interests over and above the shared interest of living in Scotland. It wanted to join with working people across Britain and Ireland in creating a socialist alternative. The demand for devolution of power was made so that they could tackle poverty, poor housing, inadequate public services and industrial closures, and not in order to separate.

Federalism

Now that there is a Scottish Parliament, Welsh Senedd and Northern Irish Assembly, we have the basis for a federal arrangement where some powers are devolved, but other areas benefit from the strength of a single Parliament dealing with macroeconomic issues and international relations. This dual approach allows variations in policy within the constituent parts, but can provide the combined strength to operate within the global economy. Since Brexit it is even more necessary to have a means of giving a voice to all parts of the UK on issues that are cross-territorial but where the responsibility is devolved. It would be entirely logical that the UK should continue the unfinished business of devolution and become a federal state.

There are two arguments often used against federalism. Firstly that no one can explain what it means. Secondly, that there is no appetite for it.

Countering the first argument is a substantial new paper written by Seán Griffin. Originally commissioned by Jeremy Corbyn during his leadership of the Labour Party, in 'Remaking the British State' Griffin describes how a radical constitution could challenge the centralised nature of the British state and lay the basis for building a more democratic economy.⁶

Griffin argues for the adoption of a codified and legally entrenched constitution which enshrines international human rights standards, environmental protection and economic and industrial democracy by giving workers the right to buy out their employer. The National Investment Bank should be required to ensure a fair and equitable redistribution of power and wealth across the UK and there should be

democratically accountable regional representation on the boards of the Bank of England.

The second objection has become less valid. The response to the Covid crisis has exposed that all parts of the UK can benefit from the enormous borrowing power of the UK's Treasury, but there is dissatisfaction about how the resources are distributed, and decisions on investment are taken centrally rather than locally. What local means will vary, but if we use the guide of subsidiarity then we see that different levels need powers for different purposes. It is clear that the centralised response to tackling Covid was inefficient and costly. The billions of pounds poured into track and trace proved ineffective and may have been better delivered by using local government public health departments. In the early days of the pandemic, the failure of centralised purchasing of PPE was often rescued by local solutions. And for the future the economic recovery programme must give regions powers to regenerate their economies. Presently we have the prime minister making plans on where he thinks investment should go, sidestepping any local involvement. He intends to ignore the devolved administrations as much as the elected mayors and local authorities. He is further consolidating the already centralised British state.

Now is exactly the right time to put forward a federal model for power sharing. There has been a spate of reviews from bodies including the UK government, the Welsh government, the House of Lords Constitution Committee and the Labour Party. Questions are being asked about the First Past The Post system used for elections to the House of Commons, whether there should be a written constitution, and how long we can tolerate an unelected second chamber.

The unelected, elitist House of Lords has never seemed so anachronistic, with its hereditary peers, life peers and bishops. Despite its occasional attempts to soften the most outrageous aspects of some legislation, it is politically impotent; and so it should be. It is clear that an unelected chamber should not be able to overturn decisions taken in an elected one, and that makes it all the more useless as a means of holding the government to account. The UK has a presidential-style prime minister with a docile cabinet and a significant parliamentary majority. That leaves the prime minister largely unchallenged. When the opposition is ineffective the situation becomes even worse.

A federal system would create an elected second chamber. The important principle here is that nations and regions should be able to work together across territorial boundaries where they have shared interests. A Senate of the Regions and Nations would have responsibility for those issues that cannot be dealt with in one area, instead requiring joint action. For example, our environment does not stop at our borders, as poor standards in one area will impact on others. There would have to be a means of preventing a race to the bottom in areas such as corporation tax, workers' rights and consumer protection, so that each devolved administration could choose to enhance but never reduce UK wide standards.

Representatives in such a Senate from one locality could have common causes with other areas of the UK, giving a stronger voice to constituent parts that currently feel overlooked; this would also help to break the over-representation of a few square miles of London in the control of the economy, politics and culture of the UK. It is not just about geography. It is about redistributing power to those who should have it and redistributing wealth to those who have created it.

Impact of devolution on the Scottish Labour Party

Labour has seen the number of seats it holds in the Scottish Parliament reduce from 65 in 1999 to 22 in 2021. During the past six years Scottish Labour has developed more radical policies, but the majority of its MSPs are not necessarily sympathetic to the policies devised by the members. The policy-making body of the party, the Scottish Policy Forum, supports federalism and has adopted the term Progressive Federalism as introduced by the Red Paper Collective.⁷

Scottish Labour wants to see the establishment of a Constitutional Convention, the abolition of the House of Lords and its replacement with a Senate of the Nations and Regions. While it reiterates that it does not support independence, it does re-affirm its commitment to the 1989 Claim of Right, 'which underpinned the creation of the Scottish Parliament inside the UK'. The Claim of Right affirmed that it 'is the sovereign right of the people to determine their future, and the right of the people of Scotland to determine the form of government suited to their needs'.⁸ The party opposes any plans for a second referendum in the next Parliament on the basis that the next five years should be dedicated to the Covid recovery programme.

In the run-up to the Scottish Parliamentary election, Scottish Labour's aspiration was to return to second place and become the official opposition. Instead, the gap between the Tories and Labour widened. Despite his good reception by the media, Anas Sarwar failed to win a significant number of voters from either the nationalist or unionist blocs. For the fifth Scottish election in a row Labour lost seats.

There has not been the widely predicted electoral bounce following the election of Keir Starmer. Labour has also lost a large number of members both in Scotland and across the UK since the 2019 election.

Conclusion

Prime minister Tony Blair's plan for Scottish and Welsh devolution was an ill-thought out, rushed response to growing anger in Scotland provoked by the Conservative governments of Margaret Thatcher and John Major. Blair came close to losing the referendum in Wales and the fact that he gave responsibility for the

2004 referendum in the North East of England to John Prescott suggests that he did not see it as a priority.

Rather than a quick fix, it would have made sense to establish a far-reaching constitutional convention to consider how to devolve powers to the nations and regions while ensuring parity of esteem in their dealings with the House of Commons, and to replace the House of Lords with an elected second chamber.

This would have involved ceding powers at the very time when the role of the prime minister was becoming more presidential and parliament less effective at holding him or her to account. The legacy of the way devolution was introduced could ultimately have the opposite effect than was intended. Instead of appeasing the demand for separation, it may have laid the ground for the break-up of the UK.

Afterword

The Scottish Parliamentary election in May 2021 saw a 12 per cent increase in turnout. Traditionally the Scottish Parliament has not attracted as much interest as general elections. Despite a low-key campaign, Scottish voters were motivated to vote.

The result revealed beyond doubt what the polls had suggested: Scotland is split 50/50 for and against independence. In the constituency vote the three main parties that were backing Scotland staying in the UK won 50.4 per cent of the vote. In the regional list vote the three main parties that were supporting independence were narrowly ahead with 50.1 per cent.

Although Labour remains in third place, it does have a new intake of MSPs. Hopefully these new representatives can help change the culture within the group which has resulted in such a high turnover of leaders.

It is not too late for Labour to get its voice heard in the debate on Scotland's future, but this won't happen by dismissing the discussion as illegitimate. If it rejects both independence and the status quo and believes in more devolved powers, it must describe the kind of society progressive constitutional change can deliver. It should ask why, if there is a future referendum on independence, any democrat would deny a wider choice than the binary Yes or No.

As things stand, a Yes/No referendum would result in fifty per cent of the population feeling aggrieved and disenfranchised. A third option would allow voters the opportunity to vote for change or the status quo. If change wins, then the choice would be independence or more substantial devolution. This may be the best hope of avoiding decades of potential division, which would continue to detract from a focus on the problems of poor health, falling educational standards, drug deaths, lack of investment and gross inequality that currently plague Scotland.

Pauline Bryan is a Labour Peer appointed by Jeremy Corbyn as part of a group who are committed to the abolition of the House of Lords. She is Convener of the Red Paper Collective.

Endnotes

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- 2 Michael Keating, 'Second round reform: Devolution and constitutional reform in UK, Spain and Italy', *LSE Europe in Question Discussion Paper Series*, 2009.
- 3 Gordon Brown (ed), 'The Red Paper on Scotland', *Edinburgh University Student Publications*, 1975. Vince Mills (ed), 'The Red Paper on Scotland 2005', *Collections @ Glasgow Caledonian University*, 2005.
- 4 John Foster, 'We need a radical economic strategy', in *Scotland United: 1971-1921*, Jan 2021: https://www.scottishlabourleft.co.uk/uploads/6/4/8/1/6481256/red_paper_amended.pdf.
- 5 Labour Party Manifesto, 1983: <http://www.labour-party.org.uk/manifestos/1983/1983-labour-manifesto.shtml>. See also: Joe Guinan, 'Bring back the Institute for Workers' Control', *Renewal*, Vol 23 No 4, 2015.
- 6 Seán Patrick Griffin, 'Remaking the British State: For the Many Not the Few', Red Paper Collective, 2020: <https://www.scottishlabourleft.co.uk/articles--reports/remaking-the-british-state>.
- 7 Scottish Labour Party Policy Forum, *Final Report*, October 2020, pp42-46.
- 8 Ibid.