

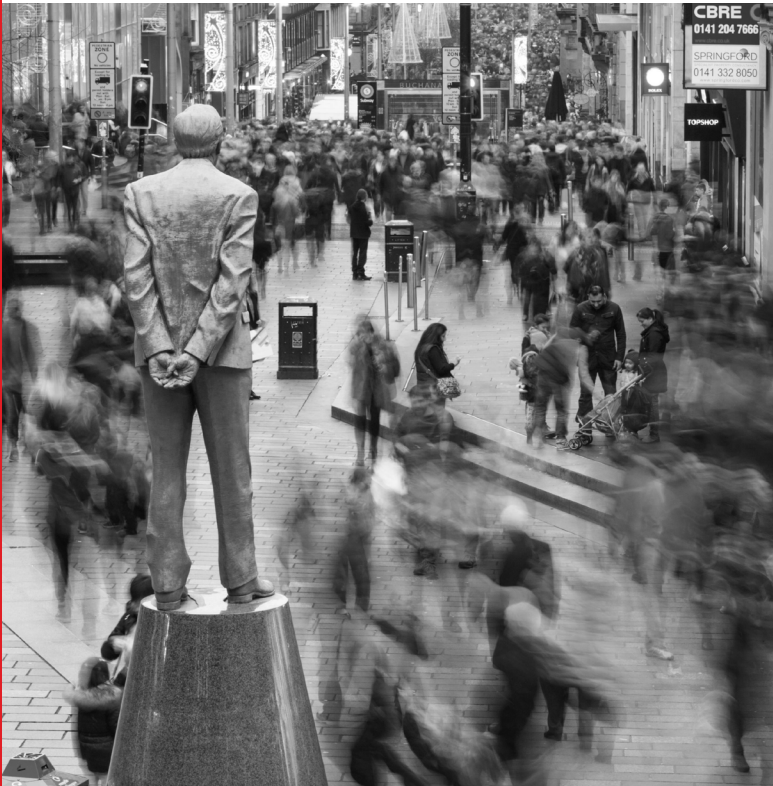
FEPS
FOUNDATION FOR EUROPEAN
PROGRESSIVE STUDIES



SCOTTISH
FABIANS

A VOICE FOR THE FUTURE

HOW LABOUR CAN
SHAPE THE NEXT 20 YEARS
OF DEVOLUTION



Edited by

Martin
McCLUSKEY

Katherine
SANGSTER

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A VOICE FOR THE FUTURE

How Labour can shape the next
20 years of devolution

Edited by Martin McCluskey & Katherine Sangster

**SCOTTISH
FABIANS**

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PREFACE

Ania Skrzypek PhD

This book is a result of an incredibly inspiring cooperation between Scottish Fabians and FEPS. It began against the backdrop of the UK referendum on the country's membership of the European Union and has continued through the harsh reality of Brexit. The latter came at a high price to so many – especially in Scotland, where pro-EU attitudes are dominant – and raised a counter-reaction in a form of a demand for the second referendum.

Twenty years on from the creation of the Scottish Parliament, there is so much to explore when discussing the Scottish political landscape and the institutional developments. Undoubtedly, the ambition that the Labour Party had in pursuing devolution two decades ago was a much-needed reform for the UK. Perhaps today that is harder to appreciate, as Labour has been out of power in Scotland for almost fourteen years and suffered significant election defeats in the past decade.

This opens three questions. The first one regards the institutional arrangement and ways in which all governing levels should interact with one another. It is not a tactical issue, but a defining matter that connects the debate in Scotland with the other discussions in the EU on how to build and promote resilient democracies. In order to respond to it, as the authors point out, it won't be enough to address the Westminster/Holyrood or UK/EU

relations. It will take a qualitative change, which can only be enacted if the debate directly engages citizens.

The second one concerns the terms on which a debate about the UK and Scotland's future should be conducted. The recent experiences of the referenda have shown how much their outcomes were influenced by the appeal of identity politics and nationalist rhetoric. The parties resorting to them have gained a momentum in Britain – as they did elsewhere in Europe – becoming loudspeakers for people's grievances and anger. As such, they address the results, but by far not the causes of why citizens feel anxious or frustrated. These sentiments come from real, daily concerns as citizens feel first-hand the impact of rising inequalities, growing social problems, increasing unemployment, and narrowing access to opportunities. As several authors of this book argue, the pandemic and the fallout of the Brexit referendum has only exacerbated these. This calls for shifting of the focus. It is indeed a time to invest – intellectually and passionately – in an effort to promote a modern, socially progressive agenda. And this cause will continue uniting centre-left sister parties way beyond any borders in Europe.

Consequently, thirdly, there is a question about the renewal of Scottish Labour – particularly bearing in mind that Keir Starmer has said that “the road to a Labour victory in the UK runs through Scotland”. The contributors share the view that the party continues to struggle, despite having very proud traditions. It seems to be trapped in a situation, in which it is considered only a second-best choice by many who used to or potentially could vote for Scottish Labour. Labour's recovery in Scotland is a significant challenge, and this book tries to support them by offering insightful and useful commentary by the key players in the devolution settlement in Scotland along with current opinion formers. Their analyses are complemented

with the original research on what Scotland thinks, wants from its parliament, what it means to be Scottish and how the pan-UK thinking should develop.

It is a delight to recommend this book to readers in Scotland, in the UK and across the EU. It is our hope that you find it insightful and instructive.

FOREWORD

Anas Sarwar MSP

The next Scottish Parliament will face some of the most significant issues Holyrood has ever had to deal with. We must rebuild our society and economy following Covid-19, face up to challenges in our public services, and ensure that we never again have to choose between treating cancer or treating a virus.

These priorities come amid an ongoing debate about Scotland's future. In December, Keir Starmer set out Labour's plans for a new Constitutional Commission to lay the groundwork for a new settlement for the whole of the UK. It will spread power, wealth and opportunity out of our national parliaments to local communities.

The devolved settlement that Labour established in 1999 has seen major changes on two occasions. The Calman Commission in 2012 and the Smith Commission in 2016 both resulted in significant new powers for the Scottish Parliament, but neither addressed the issue of how the UK continues to work together.

In the intervening years, we have seen pressure put on the UK with the Brexit vote, the resulting fallout and the Covid-19 crisis. The UK is under strain, exacerbated by politicians who seek to exploit our divisions rather than promote unity. That is why it is essential that the first answer Labour's Constitutional Commission provides must be our party's vision of what the UK could,

and should, stand for – and what its purpose is in the era of devolution.

Labour reformed how our country was run in the 1990s, and I believe it will once again fall to us to fix our divided country. This collection of essays is a timely contribution to that debate. It draws on the research and experience of people inside and outside of the Scottish Labour Party and provides some much-needed reflection on almost 22 years of devolution.

As this book reminds us constantly, we are not engaged in a discussion about the future of devolution in Scotland and the rest of the UK for the sake of it. We believe in devolution as the means to the end of creating a fairer and more equal country for all.

INTRODUCTION

Martin McCluskey and Katherine Sangster

“I look forward to the days ahead when this Chamber will sound with debate, argument and passion. When men and women from all over Scotland will meet to work together for a future built from the first principles of social justice.” – Donald Dewar speaking at the opening of the Scottish Parliament, 1st July 1999.

As Scotland approaches the sixth election to the Scottish Parliament, the Scottish devolution settlement has never been so fragile. The decade since the SNP’s majority win in 2011 has been marked by constitutional division against a backdrop of austerity. The independence referendum caused a cleavage in Scottish politics that six years later has still not been closed, and Brexit has put pressure on the union like never before. For many, the Covid-19 crisis, and the cross-UK working on issues such as testing and vaccines, has confirmed the benefits of working together. For others, it has strengthened their belief that Scotland would benefit from going its own way.

The result is that the settled constitutional position that had prevailed since the 1980s – devolution inside the United Kingdom – is under threat, with supporters often unable to articulate a clear case for it and detractors claiming that devolution can never deliver what they believe independence could. This is ironic, given that the Scottish

Government has never been so powerful, it is led by one of the most popular political figures in the UK and the current settlement has provided a platform for Scotland's interests to be addressed on the UK-wide stage.

In some respects, devolution is working exactly as it was intended to. However, in others, it clearly is not. In 1999, devolution offered an alternative to independence and to all political decision making being made at Westminster. It attempted to do three key things in 1999: to move power from Westminster and make it locally accountable; to provide the levers of power for Scottish politicians to deal directly with our public services and find "Scottish solutions to Scottish problems"; and to provide a platform for Scottish interests and Scottish identity to be expressed within the broader framework of the United Kingdom.

The time is ripe for an assessment of where the argument for Scottish devolution goes from here. This short book is an attempt to set out some of the major challenges facing the Scottish Parliament, our MSPs and the Labour Party over the months and years ahead. It is an attempt to start to articulate a future for Scotland outside of the European Union but still in the UK. It is not intended to be a comprehensive assessment of twenty years of devolution or a detailed blueprint for constitutional change.

Our collection of essays draws on new evidence from FEPS/Fabians research and from the experience of our contributors. The intention is to generate discussion ahead of the Holyrood elections and as Labour embarks on a new constitutional commission. We are grateful to our European colleagues at FEPS for their funding and we also hope these discussions will form part of a broader conversation across Europe about how progressives answer the arguments made by nationalist and populist parties.

In 2014, people in Scotland chose to remain in the United Kingdom. Labour made the argument that the UK could be a social justice union, allowing Scots to benefit from

pooling and sharing resources. The party also interrogated the SNP's case for independence – from the economic arguments to our position in the European Union – and voters across the country agreed that it was not convincing. More than six years on the UK is again being put under strain by populist nationalist politics. While the arguments for independence may be weaker, the context of the debate has changed with the UK's decision to leave the EU in 2016.

This book begins by setting out the challenge our country faces. In Chapter 1, Gordon Brown outlines how Scotland can respond to the major issues of Covid-19 and Brexit that have gripped our country's politics in recent years. He sets out the need to reform the whole of the United Kingdom if the country is to hold together, and the need for progressive policies to deal with the realities people are facing in their lives.

Gordon Brown's response is rooted in the Fabians/ FEPS research which is outlined by Martin McCluskey in Chapter 2. He argues that constitutional politics is not a priority for Scots, but many want to see their identity reflected in their politics. The failure of the Scottish Labour Party to articulate a progressive, patriotic, pro-UK vision for our country over the past decade has provided a space for the SNP to thrive where they have replaced Labour as the collective political representation of the people of Scotland. The question of national and political identity is discussed in the final two chapters by Brian Wilson and Paul Kennedy. The response, McCluskey argues, is for the Scottish Labour Party to learn from its history, to articulate its vision of a pro-UK progressive Scottish identity and to set out a vision for change in the UK that does not only rely on constitutional devices.

Both Brown and McCluskey argue for a focus on reforming the UK and not simply a focus on devolution to the Scottish Parliament. In Chapter 3, Professor Nicola McEwen picks up on this theme and, while highlighting

the inadequacies of the current devolution settlement, encourages a shift in emphasis from the idea of “self-rule” to “shared rule” and advocates for a focus on establishing better ways for different parts of the UK to work together. Professor Jim Gallagher, in Chapter 4, reflects on his experience as a former senior civil servant and asks what improved intergovernmental relations might look like in the UK, and how all our governments could be held to account.

Much of the debate in the past decade has focused on how much power should pass from Westminster to Holyrood, but our book makes the argument that more must be done to strengthen our democratic institutions, regardless of what path devolution takes. That means strengthening the Scottish Parliament at a national level and councils at a local level to make government more responsive. In Chapter 7, Margaret Curran revisits one of the founding documents of the Scottish Parliament and assesses progress against the principles the Parliament established for its work. She is clear that there is much to be proud of, and Scotland has been improved by devolution, but in recent years an overbearing executive and poor scrutiny by Parliament has left Scottish democracy weakened. She encourages a renewed focus on Parliament as a vehicle for delivering changes to people’s lives.

A similar focus on outcomes is advocated by Councillor Eva Murray in Chapter 8. Local government has been one of the casualties of the devolution era, with less power to make meaningful change as policy restrictions and ring fencing of funding reduce the power available to them. Murray argues that sweeping changes are needed as part of Labour’s plans for constitutional change to empower local authorities and give councillors the freedom they need to change their communities.

Regardless of how well designed the UK’s institutions are and how much power is devolved, there still need to be politicians willing to use the powers. In Chapter 5,

Professor James Mitchell makes the case for more policy radicalism to tackle the “wicked problems” that exist in Scotland. He argues that there has not been enough willingness to expend political capital on difficult issues and that the desire to avoid massive overhauls has held back reform. One of the members of Scotland’s first cabinet, Sarah Boyack MSP, develops some of these themes in Chapter 6 and argues that Labour did not do enough to own and embed its policy successes during the first administration and she looks forward to what she would like to see achieved in the next five years.

1 | STATE OF THE NATION

Gordon Brown

For years now the debate in Scotland on our constitutional future has been a binary battle, raging between those supporting independence and those defending the status quo. But with Scotland's future back on the agenda again, I believe it is time to examine the case for a wholesale reform of the UK constitution. One that could improve Scotland's battered relationship with the rest of the United Kingdom and perhaps also enhance Scotland's future role in our multinational state.

There has been no review of our UK-wide constitution for 50 years, since the Kilbrandon report. Labour has set up a Constitutional Commission to examine the scope for change and the measures needed to achieve it. The UK government should do likewise. Support for such a cause has been expressed in an important statement signed by representatives of Scotland, England, Wales and Northern Ireland.

Any decisions should be preceded by a citizens' consultation across the UK, with citizens' assemblies in every part of our country to debate our future.

Learning lessons from mistakes made in the recent past, there are at least four areas where a reappraisal is now needed and where reform should be considered. The first is building better relationships across the UK's regions and nations. The second is making the centre of government more inclusive. The third is realigning the powers

of different decision-making bodies for the post-Brexit, post- Covid-19 era. The fourth is setting out a clearer purpose and direction for the UK. Each consideration is guided by the desire to bring power closer to the people wherever possible.

Sadly, the Conservatives and nationalists do not favour such a review. The SNP – whose policy is independence and nothing less – has no interest in improving the UK. The Conservative approach, at least for now, is wholly negative and appears closed to new thinking: ‘no’ to a referendum, ‘no’ to independence, ‘no’ to partnership with the Scottish administration, and still ‘no’ to reforms to improve the levels of consultation and cooperation, despite the Dunlop and other reports.

The government’s approach raises questions about what Tory unionism now amounts to and the direction in which they are taking us. When Boris Johnson recently declared devolution “was a disaster”, he was not speaking to majority Scottish opinion (90 per cent favour the Scottish Parliament) but to a marginal strain of English nationalism. When his post-Brexit Internal Market Act overrules parts of the devolution settlement he is again not speaking to majority Scottish opinion but to an outdated idea of a pre-devolution centralised unitary state. Now that his UK Shared Prosperity Fund is proposing to deliver projects in devolved areas without even the minimum of consultation or partnership the fund is exposed as a lot less interested in sharing than its title suggests. When he implies that there should be no referendum for 40 years he is again not speaking to Scottish opinion (84 per cent would rule it out now but 83 percent would not rule it out forever) but addressing another audience, most of it far from Scotland. If he continues in this manner, Boris Johnson risks becoming the biggest recruiting sergeant for nationalism and will lose any hope of persuading Scotland’s undecided voters to stay with the UK.

Forum for the regions and nations

I believe there is a better way. Many commentators writing from London assume the biggest issue people are concerned about is powers. In fact, the bigger problem is broken relationships. In 1997, not enough consideration was given to the machinery for joint working between the Scottish and UK administrations where there are issues of common concern and where cooperation is necessary or where co-decision making may be appropriate. At a minimum we need clarity on where there is demarcation and how disputes can be dealt with. While the Scottish Government does not want cooperation between the two administrations to work – and indeed wants to prove it cannot work – the Welsh government – which does – has recommended a new UK Council of Ministers modelled on the EU Council to strengthen collaboration and joint decision-making.

The expectation in 1997 was that joint ministerial committees would meet regularly on matters of common concern, but in recent years, this has not happened. Apart from discussions of Brexit, the joint ministerial committees have never met even when disagreements on important issues like how to coordinate drugs policy are a source of unresolved tension.

Cooperation during the pandemic has faltered with too many people having to pay the price for the absence of joined-up decision-making. At times Britain has looked like a dysfunctional state. While Scotland's First Minister has attended some COBRA meetings on the pandemic there is no regular consultation between her and the Prime Minister. Instead because of a failure to coordinate the machinery of government we are at the mercy of ad hoc initiatives and informal conversations. This cannot be the basis of how two administrations work together.

In other countries, there are forums and other mechanisms for coordination that are embedded in the machinery of government as a key part of the constitution. One option is a UK Forum of the Nations and Regions where matters of devolved or overlapping competence with cross-border and cross regional implications are addressed. It should also be able to discuss matters where Westminster has competence but where devolved institutions should have an opportunity to comment on and influence UK policies that affect their competences.

The centre of government must become more inclusive

There can be no national integration without political inclusion, and our UK-wide institutions must reflect our multinational, regionally diverse country. Highly politicised appointments that reward Conservative Party donors have recently brought an already out of date House of Lords further into disrepute and the second chamber is ripe for reform.

A Senate of the Nations and Regions could do what other countries like Germany, America, Australia and Canada do: guaranteeing minorities – in our case regions and nations – a stronger voice right at the centre of the government. Their second chambers make allowance for minorities who can, otherwise, feel they are discriminated against or ignored, and in the US, Germany, Australia and Canada, the votes of electors in the smallest states when forming the second chamber are given a weight between ten and twenty times greater than the larger states or provinces.

Making the legislature more attuned to the needs of minorities would still not be enough. The Executive also has to find a way to include the voices of each region and nation. Today the centre looks more exclusive than ever and the Conservative cabinet looks more like a Home

Counties clique than a government representative of the whole country.

During the last Labour government some progress was made by appointing senior ministers with responsibilities for each region of England as well as for each nation. There was, then, a minister for the North East, the North West, Yorkshire, the Midlands and so on – a practice summarily abolished in 2010, but there are other options too. In countries with minority ethnic groups, power-sharing ensures minorities are not excluded but are represented at the heart of government.

Re-align powers held by the regions and nations for the post Brexit, post Covid-19 era

The premise of devolution is that decisions be made as close to home as possible. Indeed ‘levelling up’ – a subject now of great interest – cannot succeed without ensuring important powers of economic initiative rest with the regions and the nations. Brexit has now reopened the issue of what powers should be held by whom.

Powers over agriculture, fishing, and aspects of regional policy were devolved to the Scottish Parliament under the Scotland Act and there was a presumption in favour of devolution. We listed those matters that were not devolved but retained, rather than listing what was devolved. However the Internal Market Act ensures that powers over agriculture, fishing and regional policy – that were once held by the European Union and have now been repatriated to the UK – remain in Whitehall for up to seven years, irrespective of previous devolution settlements. The default position of the UK government reflects their own obsession with sovereignty, and dislike of devolution. This is not a sustainable position. Pressure will grow for a review of powers not just to cope with the post-Brexit world but to deal with those areas – now subject to regular

disputes and complaints – where there is either ambiguity over who does what or disagreement.

Set out a mission statement for the UK

Finally, we have to consider whether we now need to set out clearly what the UK stands for. A shared future depends on shared values. It was wrong to think we could create strong Scottish, Welsh, Northern Irish and regional decision-making bodies and automatically expect people to feel more British as a result without any sustained effort on the part of successive UK governments to explain the role of the UK rather than just defending the union because of its longevity not its virtues.

The only Britain that will survive is one that is built on more than past successes and can meet the day-to-day concerns people have. If the enduring unity of the country depends not just on economics but on forging a modern story about our shared values, then we need a national conversation. No one should forget our past but we need a narrative about the present and the future. Our future should be one built on the shared experiences and common values of people and communities in every part of the country.

I favour examining the case for a statement, perhaps embedded in a constitutional document, that sets out the shared and enduring commitments of all nations and regions to the upholding of both civil and political liberties and social and economic rights and responsibilities.

Such a statement could enshrine a promise that through the pooling and sharing of resources across the country, every citizen in every part of the UK would always be guaranteed the right to decent levels of social protection when sick, disabled, unemployed or poor and every young person the right to education. It would also guarantee that any citizen – wherever they were and no matter their income – could automatically draw on the NHS

when in need, irrespective of their wealth and income and notwithstanding different systems of national and regional administration.

Delivering the change we seek

What is the way forward? I have suggested that no constitutional review of modern times can be carried out without a prior citizens' consultation across the UK but even that would not be enough. Many people would like to see more light being shed both on the ideas people have for Scotland to stay within the union and the plans being made to leave it.

The Our Scottish Future think tank has spoken to both No and Yes voters in recent months to seek their views on the way forward for Scotland and the results are very clear. Burnt by the experience of the 2014 referendum and the Brexit vote – not least inaccurate promises published on the side of buses – the people of Scotland want to see far greater clarity on the choices available to them.

They want the unadulterated facts. They don't want to be assaulted by unverified, unverifiable and contradictory claims which merely entrench the positions of competing camps and leave no scope for open discussion of alternatives. They want an objective analysis of what each choice may offer.

Unfortunately, we are a million miles away from that position as things stand. Today there is a huge information gap and a knowledge deficit about the potential choices on offer. On the one hand, Boris Johnson has yet to spell out any clear direction on how Britain is to change post Brexit, or how his Internal Market Act will work, or what 'muscular unionism' means for the everyday decisions that affect our lives. In the exact same way that the Vote Leave campaign deliberately decided not to set out any detail on the reality of post-Brexit Britain so there is now an eerie

nationalist silence on what independence means for our health, welfare, jobs, security and livelihoods.

So we have Boris Johnson unable to set out the facts of what Global Britain means for Scotland, what levelling up is about and what is his road map for the Scottish-UK relationship in future years. On the other side we have the nationalists still to be open about the future of the currency, the pensions system, the security and defense of the country and the likely path of debt and deficits whatever scenario is chosen-and what it means for welfare, and public spending on areas like health.

It is clear that just as the many promises made by the UK government as recently as 2019 are out of date, so too is the SNP's blueprint – the Wilson Growth Commission. We find ourselves in the strangest of positions that the SNP want independence back on the agenda but want to do as little as possible to demonstrate the economic and social case for it.

They have committed to a Scottish pound replacing the UK pound but are unprepared to explain the implications. For example, for the cost of mortgages taken out in UK pounds and what reserves they will need to avoid persistent devaluations.

They claim the Scottish Government can afford a higher level of pensions and benefits but cannot explain how this will be funded. They say leaving Europe – which accounts for 15 per cent of our trade – puts £15 billion of import and exports at risk. Yet they say leaving the UK – which accounts for more than 50 per cent of our trade – will not harm us even when £50 billion of imports and exports are at stake. They suggest Scotland has 'a get out of jail free card' to avoid the large deficits and debt burden that could usher in a new age of hyper-austerity. But with their past calculations from the Wilson Commission now overtaken by events, they evade the question at every point.

It is unacceptable and I believe Scotland deserves better – we deserve the facts. It is time to conduct a deep dive on all the claims being made. Not just about the clean break the SNP want but about the status quo, and about the merits of change within the UK. So I suggest a fresh “open book” approach where we expose all our options in Scotland to the sunlight of scrutiny.

I suggest three key platforms for doing so. First, we need to test the evidence – with independent think tanks, research organizations and academic institutions encouraged to scrutinise the claims made by all parties and subject them to close examination and fact checking. This is not just a demand to ‘open the books’. It is more than that. It is a call to subject all the arguments and claims about the future government of Scotland to an open process of investigation.

Second, we need to open up the options to scrutiny by the public, with new citizens’ assemblies convened and given the chance to test, stretch and dissect the evidence in front of them.

And third, the two parliaments have to perform their full democratic duty and not duck these issues. We should agree an in-depth series of parliamentary hearings, where we ask our MPs and MSPs to step up to the task of ensuring proper transparency and accountability, re-establishing their role of holding to account those who govern us. Let us have a proper parliamentary inquisition.

The Scottish Parliament and the two Houses of Parliament in the UK should each set up investigative committees made up of senior MSPs, MPs and Peers from all sides. The House of Commons has a role because it will have to be fully informed to make some of the important decisions. The House of Lords can also play a role, doing what it has been best at, scrutinising the evidence for a particular set of choices.

These new investigative committees, and the Scottish Parliament’s own committee system, should call and

interrogate witnesses on remaining in the UK, on reforming the UK, and on separating from the UK

Some may say that it is naïve to think partisan MPs and MSPs can be trusted to provide a fair assessment but if our newspapers and media do their job, and if the eyes of pressure groups and the general public are upon these investigations, such public scrutiny will force out the answers we need. They will compel our institutions to be fully accountable and will judge them harshly if they dodge the facts.

The independence question is of course more fundamental to our future than even Brexit. Many now regret the lack of information and the meagre scrutiny of the consequences before the decision was made. The Brexit decision was about our future relationships with our nearest neighbours in the world. The independence decision is about something more basic, it is about whether the United Kingdom continues to exist.

Put simply, Scots deserve the facts, not false promises scrawled on a bus, posters designed to incite rather than inform or slogans that twist the facts. It is time for people to have access to the truth.

I am happy for my ideas about the need for change to be put to the test. Let us see if both no-change unionists and no-compromise nationalists are as happy to see their own proposals scrutinised and put to the sword. I believe that ultimately the case for reform within the UK that I have set out will win popular support. For all that the SNP want the debate in Scotland to be about Scottishness versus Britishness and Westminster versus Holyrood there are important ties that still bind Scotland and the rest of Britain together.

For while recent polls show more than 50 per cent want Scotland to be independent, far more – over 60 per cent – agree that the different countries of the UK “still have more in common than divides us”, with a majority across

all social groups. An even bigger majority – 76 per cent – say “the UK and Scottish Governments should be better at cooperating on issues affecting my life”.

It is through a focus on the benefits of cooperation and reciprocity, and the sentiments that inspire them, solidarity and empathy, that we expose nationalism for seeing life in terms of an endless struggle between an ‘us’ and a ‘them’.

I believe the people of Scotland want to see empathy between nations not enmity, reciprocity not resentment, and cooperation and solidarity in place of conflict and a rush to separation. Let us put forward our ideas. Let us put them to the test in hearings in our parliaments. Let us expose them to the light and see if they flourish in the open air, or wilt under the sun.

2 | THE STATE OF DEVOLUTION

Martin McCluskey

As we look back over the first five sessions of the Scottish Parliament, we see an institution that has grown in the minds of the people of Scotland. From a volatile beginning, its permanence is now guaranteed. It is also an institution that has made decisions that would not have been possible under the UK parliament like land reform, free personal care for the elderly, pioneering the smoking ban or introducing the provision of free sanitary products. Donald Dewar's vision has in part been realised. However, the aim of creating a new pluralistic and accountable politics has been less successful and as questions of identity have come to dominate, questions of good government have been marginalised.

The argument we make in this chapter – supported by our new research – is that the Scottish Parliament has shifted the centre of political gravity from Westminster to Holyrood. It has been successful in creating a distinct Scottish political identity and in reasserting national identity. However, it has been less successful at the business of government and, particularly in recent years, has been used as a bully pulpit for stoking political divisions, primarily by the SNP but also by other parties focused on short term electoral gain ahead of long-term change.

We conclude that Scotland lacks a strong major party that is robustly making the case for devolution within the UK, and that the devolution settlement is under threat from the Conservatives who have retreated to a comfort zone of exploiting unionism for short-term electoral gains, and nationalist parties for whom devolution is only ever a step towards separation.

The conclusions of our research bear out our belief that Scotland needs a strong, progressive pro-UK Scottish Labour Party. A centre left party that can convincingly make the case for change inside a reformed UK and make the case against independence has much to gain. However, at the same time the party needs to engage with the key questions of power and identity that are dividing the nation – not doing so will put a cap on their ambitions.

This chapter will provide a brief history of devolution before moving on to examine public attitudes 20 years on from the establishment of the Scottish Parliament. It concludes with some thoughts on how the devolution debate could progress and what the Scottish Labour Party needs to do to engage with it.

Delivering devolution: shifting sands

From the very inception of the union, Scotland has maintained a distinctive identity and institutions. At the outset, Scotland's established church, legal system and offices of state were maintained and as governance arrangements for Scotland developed, more institutions were adapted or created. For nearly the first four decades after the Act of Union, the position of Secretary of State for Scotland existed, but was abolished following the Jacobite rising. For more than a hundred years after the rising, responsibility for Scotland lay with the Home Secretary. But by the late 19th century, demands for greater devolution were accelerated by discussion surrounding Irish Home Rule,

and the position of Secretary of State for Scotland was reinstated and a Scottish Office established. For socialists at the time, and the nascent Independent Labour Party, Scottish Home Rule was a feature of political debate and was included in Keir Hardie's platform for the Mid-Lanark by-election in 1888.

It was not until 1926 that the position of Secretary of State for Scotland was recognised as a full member of the Cabinet. By this time the Scottish Office had grown significantly, with responsibility for administering much of Scotland's domestic affairs. This period of administrative devolution lasted, in various forms, until the establishment of the Scottish Parliament in 1999.

These regular moves towards further devolution come regularly in response to greater demands for self-government (Kidd, 2008). In the history of Scotland since 1707 there have been many such periods and the general direction has been to alter the balance of power to accommodate Scotland within the union. To opponents of the union and devolution, this is interpreted as a move to placate restive forces in Scotland, but for others they are examples of the union and, ultimately, devolution functioning as they should do: responding to demands for greater self-government while maintaining the integrity of the United Kingdom.

One demand for greater self-government that went unmet for two decades was the majority vote for a Scottish Assembly in 1979. While achieving a majority, the vote for a Scottish Assembly fell short of the 40 per cent of total electors that was required for the measure to pass. The election of a Conservative government soon after paved the way for eighteen years of growing support for Scottish devolution.

During this period, the Labour Party grew increasingly dominant in Scotland, while the Conservatives diminished from holding 22 seats in 1979 to none in 1997.

Despite making inroads into the Labour vote in some parts of Scotland in 1997, the SNP also failed to make much headway in the 1980s, failing to win more than three seats in either of the general elections in that decade. Today, Labour must learn the lessons of the SNP's failure in the 1980s and the early 1990s when they divorced themselves from mainstream Scottish opinion by opposing devolution in favour of an ideological commitment to independence at the exclusion of other options.

Developing devolution: Labour's story

For Labour in the 1980s, the relationship with devolution was not always an easy one. In the previous decade, devolution had been adopted unwillingly by many in the Labour Party in Scotland and not all the wounds had healed. Before that, in 1958, the party had abandoned its commitment to home rule. This position carried through to the 1960s when the party's evidence to the Kilbrandon Commission noted "The Scottish Council of the Labour Party has never been in any doubt that enormous problems which we face can only be tackled by firm government from Westminster." (Labour Party [Scottish Council] 1970: 4)

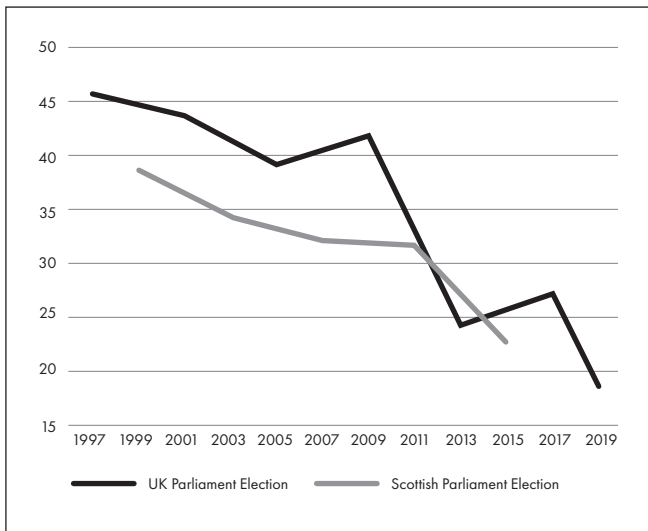
Similar tussles were to take place at that time within the Labour Party over the UK's relationship with Europe. As with devolution, the attitudes towards Europe were, for many in the party, informed by their view of the role of the state and how much power they were willing to cede from Westminster. Over time, however, the pro-European position became the dominant view among Labour parliamentarians and members. (Daniels, 1998)

By the end of the 1980s, all Scottish Labour MPs (with the exception of Tam Dalyell) signed the Claim of Right, acknowledging the "sovereign right of the Scottish people to determine the form of government best suited to their

needs". In doing so, they laid the groundwork for the establishment of a Scottish Parliament by a Labour government a decade later.

However, the divisions over Labour's approach to devolution at the outset left a difficult legacy which has continued to haunt the party. While national or regional parties across Europe have found ways to navigate the divide between national and sub-national politics, Labour's post 1999 story has been one of declining vote share. In part this has been the result of Scottish Labour's diminishing ability to speak to and for the mainstream, patriotic Scottish centre-ground for whom national identity has long been an important part of their politics, and a failure to innovate and change in response to the institution it created and the new political reality that confronted it.

Scottish Labour Vote Share at UK and Scottish Elections 1997-2019



In the post-1999 era, Scottish Labour's response to its declining popularity in the face of the SNP's momentum has been to resort to constitutional solutions. In the first decade of this century, that resulted in the Calman Commission, the 2012 Scotland Act and new powers for the Scottish Parliament. In 2014, in response to the independence referendum, the Smith Commission and the 2016 Scotland Act passed wide-ranging powers to Edinburgh, well beyond the original promises of 'The Vow' and many which are yet to be used by the Scottish Government nearly five years after the Bill passed.

The state of devolution: where we are now

These transfers of power have created a parliament at Holyrood that is far more powerful than even Donald Dewar and the early proponents of devolution envisaged. Twenty years on, there is still a significant lack of public understanding about the responsibilities of the Scottish and UK governments in Scottish life.

To judge the success of devolution, our research started by investigating what people understood of the powers of the Scottish Parliament. The findings, outlined in figure 1, show that there is still a significant lack of understanding about the devolution settlement.

Nearly three in ten people believe that the Scottish NHS is controlled by the UK government. This is despite the NHS being devolved since the beginning of devolution and the service accounting for nearly a third of the Scottish Government's total budget. Similarly, nearly a third of people believe that the Scottish Government is responsible for social security, despite the most significant social security spending (such as Universal Credit and state pensions) being determined by the UK government.

POLICY AREA	Percentage who believe the policy area is the responsibility of the Scottish Government	Percentage who believe the policy area is the responsibility of the UK government	Percentage who don't know which Government is responsible
Schools (responsibility of Scottish Government)	79	9	12
The NHS (responsibility of Scottish Government)	63	27	10
Social Services (responsibility of Scottish Government)	67	19	14
Employment Law (responsibility of UK government)	31	49	19
Universities (responsibility of Scottish Government)	72	13	14
FE Colleges (responsibility of Scottish Government)	77	9	14
Foreign Policy (responsibility of UK government)	7	80	13
Income Tax Rates (responsibility of Scottish Government)	55	31	15
Prisons (responsibility of Scottish Government)	49	32	19
Police and Criminal Law (responsibility of Scottish Government)	66	21	13
Pensions (State Pensions responsibility of UK government)	16	66	18
Relationship with the EU (responsibility of UK government)	11	79	11
Transport (Largely responsibility of Scottish Government)	61	20	19
Childcare (responsibility of Scottish Government)	74	10	15

Figure 1: Survey of 1073 Adults in Scotland (18+), YouGov, 29th May - 1st June 2020

We investigated this further with participants in our focus groups and discovered significant gaps in their understanding. When presented with a list of devolved and reserved powers, many participants expressed surprise at items on both lists. For some, the fact that devolution had been a feature of Scottish life for two decades was not understood:

"[Devolution] started a while ago. I know taxation was maybe more recent but I know health and education was probably ten years ago now."

Focus Group Participant, Male, late 40s, Central Scotland

For others, the 'beginning' of devolution was believed to be around the same time that the SNP took power at Holyrood and was identified by participants by the start of some flagship SNP policies such as free prescription charges.

This presents a key challenge for opposition parties in the Scottish Parliament and for anyone interested in good governance in Scotland. With a significant proportion of the population unable to identify the responsibilities of Scotland's two governments, there is the significant risk of a lack of proper accountability and scrutiny.

Despite this, the Scottish Government and members of the Scottish Parliament command far higher levels of trust than the UK government and members of the UK Parliament. While 31 per cent of people would not trust MPs "at all", the same is only true for 18 per cent of people when they consider MSPs.

The lack of understanding about the powers of the Scottish Parliament and Government alongside high levels of trust presents a further challenge for Scotland's democracy with many voters appearing to give the SNP the "benefit of the doubt" in key policy areas in a way

they would not with Westminster. Despite the high levels of support commanded by the Scottish Government, and the First Minister in particular, most participants in our focus groups could not identify a recent policy change implemented by the Scottish Government. Where one was mentioned, it was invariably an early policy of the first SNP administration, such as free prescriptions or scrapping up front tuition fees.

Performance of public services is another area where public opinion does not align with outcomes. While the current SNP government has failed to meet many of its own public service and economic targets over the past decade (such as on the attainment gap and child poverty), public perception of performance is still relatively positive. When we investigated this further in our focus groups, many people could identify failings in Scottish public services but were unwilling to ascribe blame to the Scottish Government. Often, the blame was placed with the UK government (even in exclusively Scottish services) or allowances were made for performance in Scotland because the Scottish Government were still seen as outperforming England. Scottish ministers, it appears, are held to a different standard than UK ministers when managing public services.

"I am still on the fence, I'm more towards yes than I am no, but I'm still on the fence, I'm not 100% saying I'd be waving the flag or a big yes banner or anything like that... I'd say I have agreed with some stuff they have said, like the way Nicola Sturgeon has dealt with everything and going on the news every single day as opposed to some of the stuff that Boris Johnson was coming out with."

Focus Group Participant, Male, 20s, Edinburgh, undecided

Scottish Government Performance

Which of the following do you think are the most important issues facing the country at this time? Please tick up to three.

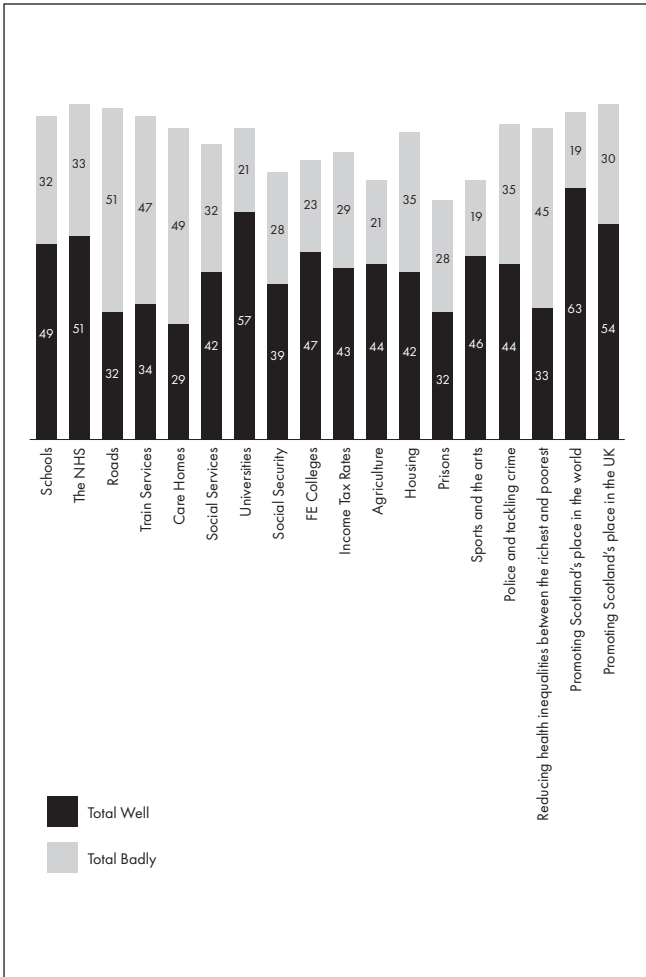


Figure 2: Survey of 1073 Adults in Scotland (18+), YouGov, 29th May - 1st June 2020

“I’ve got loads of confidence in her [Nicola Sturgeon] now. She seems as if she deals with things very well so she is the SNP to me at the moment so I would probably find it hard to vote for them if I didn’t. Although John Swinney made an ass of the education thing but then he apologised which is great.”

Focus group participant, Male, 40s, Central Scotland,
intends to vote ‘yes’

Identity

A theme running through our research was the emergence of a growing number of contradictions in the way the public viewed devolution. Scottish self-government inside the UK has delivered numerous advantages, but independence still held broad appeal. The Scottish Government has never been so powerful, but instead of making the case for devolution it seems to have strengthened the case for independence. The performance of public services has been poor, but the positive judgements about the Scottish Government often revolve around comparisons with England, often at the expense of people’s own negative experiences of services such as schools and hospitals.

Support for the Scottish Government often seemed to be determined not just by traditional political reasons (such as the strength of Nicola Sturgeon’s leadership or the perceived performance of the Scottish Government) but also by the fact that people could see their own national identity and experience reflected in the work of the Scottish Government and Scottish Parliament in a way it was not with the UK government and Parliament. The Scottish Government, for a large group of voters, has become not just a body exercising executive functions, but a “collective representation” of the people.

There has always been a strong sense of national identity in Scotland and this has often been used as part of political

debate (McCrone, 2020). Labour successfully made the argument that Scotland was at the mercy of a government it did not vote for in the 1980s and 1990s. Today, the SNP use the same argument to make the case for independence and against UK government policies such as Brexit.

Scottish identity is strong among the population in Scotland, with a majority of people considering themselves Scottish ahead of British (if they have a British identity at all). However, only 28 per cent of people in Scotland do not consider themselves British at all.

Which, if any, of the following best describes how you see yourself?

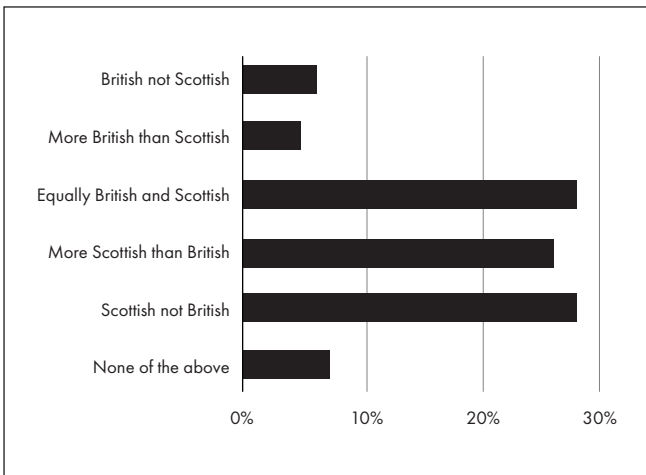


Figure 3: Survey of 1073 Adults in Scotland (18+), YouGov, 29th May - 1st June 2020

The legacy of both the 2014 and 2016 referendums still loom large in Scottish politics and the result of the former has come to define how many people in the population vote. Nearly six in ten Scottish voters now consider themselves

“unlikely” to vote for a party that does not share their position on the Scottish constitutional question – such is the extent that this choice has come to define Scottish politics.

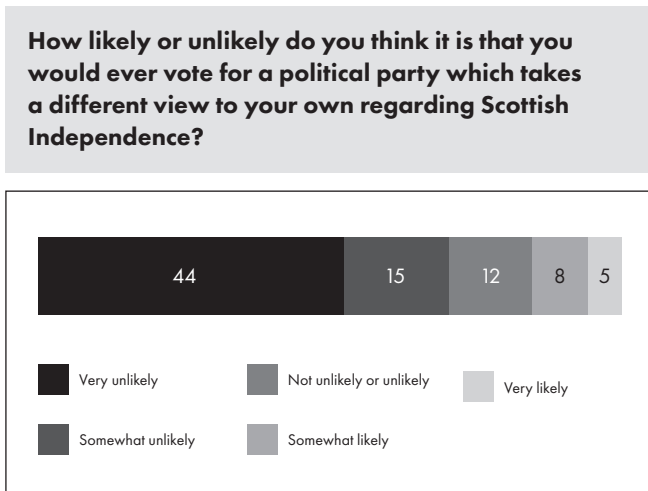


Figure 4: Survey of 1073 Adults in Scotland (18+), YouGov, 29th May - 1st June 2020

In both our poll and focus groups, strong Scottish identity was found alongside support for both the SNP and, often, Scottish independence. For participants, positive Government performance was one reason given for support of the Scottish Government. However, there were also broader reasons which related to participants feeling they could more closely identify with the SNP and the devolved institutions than they could with Westminster. In some cases, this was related to policy preferences, but in other cases it appeared to be driven more by their perception that they shared a set of values and identities with those in power in Scotland which were different to those in power across the UK.

The combination of SNP governments in Edinburgh and Conservative dominated governments in London pursuing their own version of identity politics has clearly influenced political preferences and outlook considerably. In the closing decades of the 20th Century, Scottish Labour pursued a political style that was often outwardly culturally nationalist without ever resorting to support for independence. Donald Dewar himself invoked JP Mackintosh's idea of "dual identity" saying:

"We are both British and Scottish, and the two are not exclusive but essentially compatible. Political statehood is not essential to the 'status of genuine nationalism'."

The politics of the past decade has brought together cultural and political nationalism in Scotland to an extent that we have not seen in post-war Scottish politics. This poses one of the greatest challenges to the Labour Party and is a verdict on how the party has handled the issue of Scottish identity over the last two decades. Breaking the link between cultural and political nationalism in Scotland is essential for both the future health of the Labour Party and the continuation of the UK.

"I thought that we [the UK] have this sort of exceptionalism, which doesn't reflect modern society. And Britain were closing off to the idea of foreigners and this, that and the other. [F]or me it's about opening up to everyone and as much independence might look to many people like we're closing the doors, I think for the majority of people independence was actually about saying no, we want actually to be an open society where we welcome people in and stuff."

Focus group participant, Male, 30s, Edinburgh, intends to vote 'yes'

“Whenever anybody asked me I used to say I’m Scottish, I’m Scottish, I’m Scottish. But I kind of think that it’s been dirtied a lot now, because if I say that I’m Scottish I must want independence, I must want to be separate from the rest of Britain.”

Focus group participant, Female, 40s, Edinburgh, intends to vote ‘no’

“Even if it meant being poorer for me or my family and other people I would be willing to take that. Because it looks to me that the Scottish Government are looking after who they should in society, the poorer, the students, and doing things that are far better I think than the Tories.”

Focus group participant, Male, 40s, Central Scotland, intends to vote ‘yes’

The future

These issues of power, accountability, identity and division are likely to dominate the politics of Scotland for years to come. They present a challenge to anyone who believes in a strong Scottish Parliament inside the United Kingdom. As we have outlined, the lack of a significant political force to articulate the case for devolution combined with the fallout of the 2014 referendum has led to an increased polarisation of Scottish politics.

However, no matter how challenging this situation may be, there are still grounds for optimism if Scottish Labour can build a compelling progressive case for reform inside the UK. There are three parts to the progressive case for continuing devolution: building a Scottish constitutional settlement that can command the support of the patriotic majority of Scots; reforming the UK to reflect the multi-national and multi-regional makeup of the country; and passionately making the case for solidarity as opposed to separation.

A constitutional settlement for the majority

While independence commands significant support, when presented alongside other possible constitutional options, it still fails to command a majority. While there is not enough understanding about the realities of the existing devolution settlement, it seems unlikely that increasing the powers of the Scottish Parliament would make any significant inroads into support for independence at this stage.

The first stage in establishing any future constitutional settlement is widespread public education about devolution, what it means, and the benefits Scotland has derived from it. Labour politicians must be as eager to make the case for the existing devolution settlement as the SNP are to make the case for independence. In recent years, there has been more eagerness to talk about Labour's possible support for independence or another independence referendum at the expense of promoting the benefits of devolution.

The second stage is to frame a positive policy platform around the powers that are currently available. The powers available to the Scottish Government are extensive and can be used to create radical change. Convincing leadership should be able to provide a compelling platform using these existing powers and highlight the lack of radicalism from the current Scottish Government. The SNP, now almost 14 years into government, are protecting much of their political capital for the fight for independence. Labour should respond to this with ideas for our public services and economy that could be delivered now.

Finally, there are some powers post-Brexit that Scottish Labour must be more open to arguing for as part of the devolution settlement. We should not engage in an 'auction of powers' but make any arguments for further devolution part of a wider view of where power should lie in both Scotland and the UK. Where a robust social and economic case for devolution can be made that ensures no

detriment to Scotland, these powers should be considered. For example, while border security should remain at a UK level, there are few barriers to the Scottish Government having a different approach to immigration. There is a strong social and economic case that has been made for this and one that should be pursued. Labour also needs to advocate meaningfully for local devolution and empowering strengthened, and possibly reorganised, local government.

Reforming the United Kingdom

The United Kingdom's approach to devolution is asymmetric. All nations of the UK are progressing with devolution at a different pace, in different ways, and under different conditions. While Scotland and Wales both have elected legislatures with a range of powers, England rejected the idea of regional assemblies in the early 2000s. In its place, the coalition government established Metro Mayors who have limited powers, but whose voice and standing has grown during the Coronavirus crisis. In Northern Ireland, the devolved settlement operates under international treaty and has a unique structure.

The progress of devolution across the UK and the significant change that it has created has not been matched by a similar reform to the governance arrangements of the UK as a whole. This has created significant points of tension and there appears to be no energy being expended on how this may change. Britain's departure from the European Union has made the gaps in the UK government's handling of devolution even more glaring.

In our research, while 43 per cent of people believe that devolution has made it easier to get things done in Scotland, there appears to be frustration that the UK and Scottish Governments cannot work better together. 74 per cent of people thought that Scotland's two governments should be better at co-operating on the issues that affect their lives.

As the Scottish Parliament and devolution have matured, it is necessary now for the UK's structures to evolve to better accommodate devolution. In federal countries, inter-governmental relations are often codified in written constitutions. While this would not be possible in the UK, a more formal Council of the Nations and Regions should be established to replace the Joint Ministerial Committees which currently operate largely behind closed doors.

This could establish joint programmes of work and – as best as possible – ensure that every party is committed to making the UK's structures work in the best interests of people across the UK.

Making the patriotic case for solidarity and co-operation

As our research showed, the absence of a strong patriotic Scottish voice on the pro-UK side of Scottish politics has enabled the SNP to monopolise the powerful forces of Scottish identity for their project. To combat this, Scottish Labour first needs to accept that identity is not a distraction in the political debate, but fundamental to it. In the past decade, not just in Scotland, Labour has looked reluctant to accept that people's local, regional and national identities are often a powerful part of their lives. Labour should then learn from its own history and figures from its past who successfully made the patriotic argument for Scotland inside the UK in the past, and showed it is possible to be proud of our identity without agreeing with political nationalism.

While it may not be desirable for many within the Labour Party to contemplate another independence referendum, the growing opinion that one should happen within the next five years cannot be ignored. Pushing ahead with another referendum during, or in the aftermath of, a pandemic would be inappropriate. However, Labour should

be mindful that ruling out another referendum entirely does not distinguish the party from the Conservatives. People across Scotland were asked to vote on their constitutional preferences in 1979, 1997 and 2014 (and 2016 if the EU referendum is included). The idea that a referendum will take place at some point in the future, and given the significant change that will have taken place in the UK's governance arrangements after Brexit, is not far-fetched.

Labour must be unencumbered in making the case against independence from a patriotic and pro-Scottish position. As polling last year showed, 60 per cent of Scots believe that the common bonds with people across the UK is still a strong argument for Scotland staying inside the United Kingdom (Ipsos Mori, 2020). This is an argument only a strong Labour Party can make. While the people of Scotland may be tired of Conservative politicians in Westminster, they do not seem as tired of the bonds that hold together people across the United Kingdom.

A future Labour argument for devolution and the UK must have at its core the voices of the people of Scotland and the rest of the UK who are, largely, still in favour of the UK remaining together. To do that we need to make the robust economic case for working together. But Labour cannot lose sight of how its failure to respond to genuinely held beliefs about identity have been part of the reason it has failed to recover in the past ten years. Accepting and acting on this will be crucial for future success.

“There’s lots of other things on the calendar at the moment with Covid-19 and everything else, and Brexit happening. It needs to settle first, coming out before Britain has come out of Brexit really might complicate things as well. So yes within five years, towards the end of that maybe.”

Focus Group Participant, Male, late 40s,
Central Scotland, intends to vote ‘yes’

“I’m thinking more 10 to 15 years. The bounce back from this is going to be pretty horrific I think and we’re going to be sat in recession for the next while. And again like I said before I think unity probably will sort of stabilise the ship so to speak.”

Focus Group Participant, Male, 40s, Glasgow, intends to vote ‘yes’

“I think that there’s so much going on already that I think the priority maybe isn’t independence. But then there’s also part of me that thinks, well if we want it to happen eventually maybe it’s best that it happens. And then I think...it’s going to be difficult anyway so maybe it will be worth just being difficult as Scotland and we can make our own decisions. But also it’s a scary and unknown time and I think that the idea of unity, even though I’ve been going on about how Scottish I am and not British and all these things, but yes there is a bit more of a comfort of being together rather than alone but I don’t know, I feel kind of torn.”

Focus group participant, Female, 20s, Glasgow, intends to vote ‘yes’

“I’m not saying no to independence ever in the future, but I just feel that there’s so many more bigger things going on at the moment, that to be banging on about independence all the time, there’s just no need for it at the moment.”

Focus group participant, Female, 40s, Edinburgh, intends to vote ‘no’

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3 | TOWARDS SHARED RULE

Professor Nicola McEwen

After the referendum of 1997 and the setting up of the Scottish Parliament in 1999, Labour could take pride in being the party that delivered devolution. Yet, it has also proven itself to be ill-equipped to adapt to the politics of devolution, and especially to the constitutional cleavage that pervades Scottish politics. More than two decades on, Labour still seems to be struggling to adapt to devolution and the heightened importance of the constitutional question. After successive heavy defeats, the party in Scotland appears a shadow of its former self.

This contribution both contextualises Labour's predicament and offers constructive suggestions as the party embarks upon yet another constitutional introspection in the form of the new UK-wide Constitutional Commission. My key recommendation is that any revision of the UK's constitution would benefit from focusing not only on what powers should be devolved to different institutions, but also on how these institutions can have influence over those reserved matters that constrain their powers and responsibilities. This is the essence of shared rule, and it has long been the Achilles' heel of UK devolution.

The party of devolution?

Labour entered the devolution era as the dominant party in Scotland, albeit governing always in coalition with the Liberal Democrats. Its electoral success in Scotland was mirrored in Westminster and Wales. Party political alignment between the UK and devolved governments, coupled with a benign fiscal environment, coloured the evolution of devolution in its early years. After a difficult start following Donald Dewar's death, Henry McLeish's resignation and the parliament building debacle, the McConnell administration oversaw a period of stability. Labour's devolution policy in Scotland may have emerged from a push within and beyond the party for greater 'home rule', but by the time the parliament was set up, it was regarded less as an expression of Scottish nationalism than a means to contain it (McEwen, 2004). Devolution was intended to mark a new settled status for Scotland within a reformed United Kingdom – a departure from the constitutional question to a politics dominated by devolved policy issues. Labour-led executives were notably less comfortable using the devolved institutions to assert Scotland's voice when devolved powers intersected with, and were shaped by, policy competences of the Westminster parliament.

Nine leaders and six Scotland-wide electoral defeats later, the party is still struggling to adapt to devolution and the heightened importance of the constitutional question. Those defeats have multiple explanations, but the dominance of independence and Brexit has benefited both the SNP and the Conservatives, leaving Labour struggling to carve out a distinctive pitch that keeps pace with the changing mood of the electorate (Henderson, *et al.*, 2020). Labour has gone from being a party that, in 1999, could hold its own alongside the SNP in its reputation for standing up for Scotland's interests to one that, according to an Ipsos Mori poll in November 2020, was only trusted to do

so by 36 per cent of those surveyed, compared to the 75 per cent who judged the SNP favourably in fulfilling this role (What Scotland Thinks, 2020). This is the context in which the party is reviewing its devolution policy ahead of the 2021 elections.

A new devolution settlement?

Sir Keir Starmer's pre-Christmas speech heralded a new UK-wide Constitutional Commission – 'the boldest project Labour has embarked on for a generation'. The Commission will be tasked with recommending how power, wealth and opportunity can be devolved to the most local level. This is without doubt a laudable and bold ambition, but is it likely to deliver? Starmer acknowledged the lack of time to do justice to his devolution ambitions ahead of the elections, but noted his expectation that the Scottish section of the work – leading to a devolution policy for Scotland – would be 'completed as soon as possible'. Even without a leadership election to contend with, that would be a tall order. Scottish Labour's last devolution commission took the best part of two years to re-examine devolution. Its 2014 report, *Powers for a Purpose – Strengthening Accountability and Empowering People*, produced a modest set of proposals that were superseded by the more ambitious reforms to emerge from the cross-party Smith Commission later that year.

The Smith Commission's proposals were largely translated into law in the Scotland Act (2016), but that settlement is unlikely to be sustainable. While it undoubtedly marked a significant increase in Holyrood's powers, especially in tax and social security, it also exposed the Scottish government to considerable risk, without giving it the tools to mitigate that risk. The heavy reliance on income tax revenue sits alongside very limited powers over borrowing, labour market interventions, employment policy

and the continued reservation of immigration policy, all of which affect the income tax base. Although Covid-19 has made devolution and devolved responsibilities more visible as the 'four nations' set their own Covid-19 response, it has also shone a light on the interdependence between devolved and reserved competences. In particular, UK government policy decisions, for example over borrowing, furlough, and procurement, have shaped the policy options open to the devolved governments. The limits to devolved competence may be further revealed during Covid-19 recovery. That is not to suggest that devolving more powers is necessarily the answer. The glaring gap in the UK's system of devolution is the lack of influence that the devolved governments have over reserved powers that affect their competences.

Towards shared rule

Academic studies of devolution and federalism often draw a distinction between 'self-rule' and 'shared rule'. Self-rule is what in Scottish terms we might think of as 'home rule' – what powers the Scottish Parliament has. This has been the focus of much political debate before and after devolution, and the preoccupation of every constitutional commission to date. Shared rule, by contrast, concerns the participation and influence of devolved institutions in the decision-making processes at the centre over matters that affect their powers and responsibilities.

The weakness of shared rule in the UK's system of devolution has never been more evident than in the context of Brexit. Despite the creation of new forums to facilitate intergovernmental discussions, the devolved governments had no influence over the UK's Brexit policy. Key pieces of Brexit-related legislation that, in line with the Sewel convention, had sought the consent of the devolved institutions because of their effect on devolved competences,

were enacted by the Westminster parliament despite the devolved legislatures withholding consent. In the case of the EU (Withdrawal) Act, the threat to withhold consent helped to secure some changes to its devolution clauses. By contrast, withholding consent for the UK Internal Market Act, passed in December 2020, had no effect. This Act marked a recentralisation of power away from the devolved institutions and limits the ability of some devolved laws to make a difference in future. For example, devolved laws that seek to improve public health, reduce carbon emissions or improve building standards by introducing new regulatory requirements on goods producers and service providers will no longer apply to those products (including imports) or services that have already satisfied regulations set elsewhere in the UK.

If shared rule is the main weakness, how might it be strengthened?

Restoring confidence in the Sewel convention would be a good start. The convention states that ‘the UK parliament would not normally legislate with regard to devolved matters’ without the consent of devolved legislatures. It has become an important tool both to manage the interface between devolved and reserved powers, and to underpin the authority of the devolved institutions in the face of continued Westminster parliamentary sovereignty (McHarg, 2018). Labour’s 2014 devolution commission – and later, the Smith Commission – had recommended giving Sewel a statutory underpinning, to ‘reflect the now firmly established convention... that the UK parliament does not legislate for devolved matters or to amend the powers of the Scottish Parliament without its consent’ (Scottish Labour, 2014: 123). A less expansive interpretation of the convention was subsequently included in the Scotland Act (2016) and the Wales Act (2017).

However, following the Supreme Court's ruling in the Miller case, we now know that including the convention in these Acts of Parliament had no legal effect. Moreover, its symbolic significance has been diminished by the ease with which the UK parliament has set the convention aside when the consent of the devolved parliaments has been withheld. Concerns were raised during debates over the 2016 devolution legislation that the Sewel clause did not go as far as the Smith Commission had intended. Modest reforms could look to put the process and substance of the convention into statute, with clarity about the presumably abnormal situations where the convention may not apply. More radical reform might challenge parliamentary sovereignty as a doctrine that has outlived its usefulness, giving veto power to the devolved institutions over devolved matters and co-decision powers over their devolution statutes.

A system of shared rule also requires a more effective system of intergovernmental relations (IGR). This could help to manage policy interdependencies and identify difficult issues long before the formal legislative process kicks in. This would include reforming and potentially institutionalizing the UK's ad hoc intergovernmental machinery. For example, new forums may be created where the UK and devolved governments meet as equals, to discuss matters of devolved or overlapping competence with cross-border implications. Other forums dedicated to reserved areas, such as trade or international relations, would give the devolved institutions an opportunity to shape UK policies that affect their competences. The informality and hierarchy that characterises the current system of intergovernmental relations would benefit from an agreed set of rules that require cooperation and, where appropriate, co-decision, as well as an impartial process to resolve disputes when they emerge.

The new Constitutional Commission would not need to look far to find proposals to strengthen intergovernmental

shared rule. The Labour government in Wales has been leading the way on these issues since the Brexit referendum, including proposing a new UK Council of Ministers modelled on the EU Council to strengthen collaboration and joint decision making (Welsh government, 2017; see also McEwen, et al., 2018). The SNP government, although sharing the frustrations of the Welsh Labour government, has been more reticent about publicly promoting a reformed intergovernmental machinery that might represent scaffolding to support an aging union. There may be broader lessons that the Labour Party in Scotland might learn from the continued success of its counterpart in Wales. In a way not dissimilar to Scottish Labour before devolution, Welsh Labour has dominated electoral politics in post-devolution Wales by being both pro-union and pro-home rule, 'and has sustained that balance through a soft nationalism that has often been undistinguishable from Plaid Cymru's' (McAllister, 2021).

Reforming the UK state

While there is clearly a need to enter the elections with a policy offer for Scotland, separating out and prioritising Scotland is unlikely to be conducive to the Labour's objective of developing a coherent devolution policy for the whole of the UK. Determining a policy position to change devolution in one part of the UK may be at odds with the preferences that later emerge from consultation and deliberation elsewhere. Effective devolution also requires recognition of the need to change central government too. The Constitutional Commission's over-riding objective of 'pushing power closer to the people', whether that is centered on devolved, local community scale government, needs to be balanced by mechanisms for influencing the policy decisions that will set the parameters within which local responsibilities and decisions will be made.

That starts with changing the decision-making structures and the mindset of the UK government and parliament. Perhaps it would also require changing the mindset of the Labour Party too.

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4 | DEVOLUTION'S WEAKEST LINK

Professor Jim Gallagher

Devolution is now nearly a quarter of a century old. The new legislatures and executives that were designed in detail before the turn of the century have functioned for more than two decades (albeit with some interruptions in Northern Ireland).

Members legislate and ministers govern, even if not always wisely or efficiently. In large part, what the Labour government of 1997 set out to do has been achieved. As the research for this publication shows, Holyrood continues to command public confidence and trust in greater levels than Westminster. But as the research also demonstrates, people across Scotland do not think our governments are co-operating well together.

That will not come as a surprise to many – politics over the past decade has scarcely prioritised co-operation. It does raise a deeper issue, as one part of the design of devolution that has never worked well is intergovernmental relations. The UK's governments have never really got on together. Why is this and what might be done about it? Solving this problem is key to devolution surviving the next 20 years of the Scottish Parliament's life.

A period of silence, then some shocks to the system

How the devolved institutions would work with the UK government was not front of mind for those designing devolution, but it was not wholly forgotten about. They created joint ministerial committees to include the UK government and each devolved administration within a framework of cooperation. The ministers involved on both sides were by then used to sitting on cabinet committees with one another, and some thought that might continue. But of course not: each government had its own internal collective responsibility and was accountable to its own legislature and voters.

Before long, ministers struggled to find things to talk about in these committees. They had no major political disagreements, and the separation of powers between the UK and the devolved governments was quite well-defined, with few overlaps or shared powers. Formal intergovernmental relations largely ceased from about 2002. Most joint ministerial committees stopped meeting, though day-to-day cooperation amongst officials went on smoothly in the background.

The election of the SNP in 2007 was a shock to the system. Scottish and UK ministers were now competing for the approval of Scottish voters. Formal intergovernmental relations were hurriedly rebooted, and the joint ministerial committees became a location of political competition, and sometimes some practical coordination. The UK became like any federal state, where mixtures of cooperation and squabbling between different levels of government are normal service. After 2011, the Scottish and UK governments cooperated surprisingly well over SNP demands for an independence referendum. In its aftermath, the Smith Commission and the devolution of more powers happened quickly and with little fanfare. Many hoped that in

the years after the referendum relations would settle into a 'new normal'.

The Brexit referendum put paid to any hope of that. Different parts of the UK took different views on Brexit, which by itself would have created strains, but the UK government went into prolonged paralysis. Despite offering people the choice, it had made no preparations for the outcome. It had given no thought to its effect on the distribution of power and responsibilities within the UK once they were repatriated from Brussels. It simply fell back on the assumption that it would determine where power was distributed. The resultant arguments (some still ongoing) between the devolved administrations and the UK government significantly damaged relations, putting great strain on the union. It also reflected the psychology of the present UK administration that "taking back control" meant London controlling things, while the underlying principle of devolution is that control is shared. A key fault line had emerged.

Alongside this, the SNP's renewed demand for an independence referendum following the Brexit referendum deepened mistrust in London. Brexit, of course, was a pretext. It was the increase in support for independence it caused which drove the demand; campaigning for independence barely paused when voters gave the SNP a bloody nose in 2014. As a consequence, relations between the UK's governments are today at their lowest ever ebb. When Holyrood refused to consent to the legislation implementing Brexit, Westminster simply overrode the Sewel convention which required it.

Against this background of distrust and dysfunctional relationships the UK's governments faced their most difficult domestic peacetime challenge in decades. Dealing with the Covid-19 epidemic required detailed cooperation across their different responsibilities – notably health and economic management – taking unprecedented measures

exceptionally swiftly. Dealing with emergencies has always needed special intergovernmental arrangements. The devolved administrations (exceptionally) sit on the relevant UK cabinet committees and supporting bodies in which operational decisions can be made. Additionally, professional relations within the NHS across the UK, and some important UK-wide institutions, such as the Medical and Healthcare Products Regulatory Authority and the Joint Committee on Immunisation and Vaccination, facilitate a common approach.

However, the record of cooperation has been patchy. Each of the UK's governments has taken broadly the same approach to the pandemic. The differences are in the detail and consciously different public messages. For example, Scotland chose to have five tiers of restriction (one has never been used) compared to three in England and four in Wales, with a number of relatively minor differences in the rules. Each different approach is very likely defensible as a reasonable response to an unprecedented challenge, but they are not driven by different circumstances in each country, rather by different judgements taken by politicians.

The UK government has often failed to think in pan-UK terms, and coordinate its health and reserved responsibilities, and to bring the devolved administrations into decisions, such as on offering financial support to those in isolation. Some of these ragged edges have reflected the pace of decision-making, but they have clearly been conditioned by mistrust, by poor pre-existing intergovernmental relations, by a desire of the Scottish government to show Scotland can stand on its own feet, and by a UK government assumption that it is in full control. Similar tensions have been seen inside England, between London and political representatives of the northern cities, who have felt excluded from decisions affecting their voters and economies.

Whatever the reasons – and those run much wider than intergovernmental relations – the outcomes on Covid-19 have been poor. The UK, and Scotland within it, has had almost the worst fatalities in Europe, and has had one of the worst economic hits from the virus. Vaccine rollout has been London's one, very important, success. But overall, it is hard to avoid concluding that coronavirus has tested the UK's system of governance, and found it wanting.

Strengthening the weak link

It is easier to describe the problem than prescribe remedies. Some of the challenges to successful intergovernmental relations have been contingent, arising from particular circumstances. Their initial quiescence, due to party congruence and pre-existing relationships, is unlikely to be repeated. More significant, a government in Holyrood pursuing Scottish sovereignty has strong incentives to make unsuccessful intergovernmental relations another source of grievance. But similarly, a UK government obsessed by sovereignty too is deeply problematic. Its belief that the Westminster parliament – and hence the ministers in it – should be able to do anything it likes, unconstrained by constitutional norms, is wholly inconsistent with the division of power implied in devolution.

But effective intergovernmental relations need to be able to cope with all sorts of politicians. History offers a number of lessons. The first is that intergovernmental relations matter a great deal. All government is multilevel, but social and political problems do not fit neatly into the allocation of responsibilities to different levels. There are always spillovers (epidemics an extreme example) which require coordinated, cooperative action. The machinery to deal with these cannot be an afterthought, or left mouldering if it has no immediate utility. At a minimum, these relationships must not be voluntary, constructed like the

joint ministerial committees on the basis of administrative deals between governments. Instead, they should have a firm statutory basis and an acknowledged place within the UK's constitution.

Additionally, governments need to be accountable, both individually and jointly, for how they work together. In the UK as it stands today, an obvious location for that joint accountability to take place is the House of Lords. So two small, useful, steps would be to create a statutory framework requiring all the UK's governments to give an account of themselves and how they work together to a committee of the House of Lords (or, in the future, a reformed upper chamber), to which members of each devolved legislature might be added.

But there are more profound problems, which relate to the asymmetry of the UK. Intergovernmental relations matter hugely to the devolved administrations, often practically as well as politically. But they are peripheral to the UK government, as they affect only 15 per cent of its population. The devolved nations are rarely front of mind in Whitehall, as the UK government focuses on its immediate priorities, almost all of which focus on England. Even a well-intentioned government, not labouring under the present primitive misconception of sovereignty, can come to the devolution implications of some complex policy issue late in the day, and so create problems in intergovernmental relations. More formal, statutorily enforced, intergovernmental relations with systematic accountability to parliament would mitigate but not eliminate this risk.

This reflects the fact that England is the most centralised country in Europe. Whitehall thinks it runs just about everything and is not used to the idea that there are alternative centres of political power. Over decades, local government has been systematically disempowered, while regional government, originally promoted by the Labour government alongside devolution has faltered badly. Over-centralised

government is, generally, bad government. Whitehall cannot run everything, as Covid-19 has shown. The centre cannot distinguish clearly between strategic responsibilities and daily operational challenges. Delivery cannot easily flex to meet local circumstances or preferences.

But this may be changing, under the pressure of Covid-19, as northern communities and their metro mayors demand more say in dealing with the pandemic and the subsequent economic reconstruction. The vision of a decentralised England alongside the devolved nations promoted by Labour in 1997 may yet emerge. If it does, it will profoundly change the context of UK intergovernmental relations. Central government would have to deal with the reality of multiple centres of power, led by politicians with their own mandates who would need to be engaged so the UK government could deliver its agenda. Devolution would no longer be peripheral, but central to the activities of government.

A union of nations and regions?

This federalist vision of the UK is potentially transformative. It represents the possibility not merely of different intergovernmental relations but of different relations between the UK's constituent nations and regions. Its implications are much wider merely than governments working better together: it implies nations and regions relating differently to one another; a central government freed up to discharge strategic political, economic and social responsibilities for the whole country, rather than micromanaging local delivery; and quite profound constitutional changes in the governance of a state consisting of nations and regions within one of them, and most probably the replacement of the House of Lords by a so-called Senate of the Nations and Regions.

Such a change has a long way to go – deep public consultation, and careful, staged development before constitutional legislation – but steps could be taken now which would crystallise many of the benefits early. Improved and wider intergovernmental relations will be a key part of that, bringing not just the devolved nations but English regional figures into new executive forums, and an enhanced role for the existing House of Lords in overseeing that cooperation. Perhaps paradoxically, strengthening devolution’s weak link could be key to devolution evolving into a very particular kind of British federalism.

5 | TALK IS CHEAP

Professor James Mitchell

The range of challenges that the Scottish Government and Parliament will face after May's elections are greater than after any previous election.

Even before the Coronavirus crisis, many public services in Scotland were struggling and the public finances were under pressure. The economic and social fallout of the pandemic will add to these and the urgency to address them will be even greater. How then should Scottish ministers and all MSPs approach the management and reform of our public services after May?

In approaching how to tackle these difficult public policy problems, the first step is to identify existing, emerging and likely challenges and opportunities. Addressing poverty and inequality, reforming the NHS and creating public services that are fit for the rest of this century will be a priority. To achieve this our politicians and policymakers will need to be braver, more innovative and more focused than they have been in recent decades.

Wicked problems

Poverty and inequality are the persistent and deep rooted "wicked problems" (Rittel and Webber, 1973) in Scotland that the parliament must tackle. If we are serious about dealing with persistent inequalities, then we will need

more than the symbolic gestures and very modest initiatives that we have seen emerge from Holyrood in the past. Redistribution involves zero-sum games and so far this electorally unpalatable reality has been avoided by all the parties that present themselves as progressive.

Scottish politics has rarely lived up to its radical reputation. Talk has been cheap. A good example has been the commitment across parties and institutions to the Christie principles – empowerment; prevention; integration; and efficiency – which emerged from the Christie Commission on public services in 2011. Christie has been a resounding success as measured by the frequency with which these principles are invoked. But action has limped lamely behind rhetoric. The divergence that should count is whether we are moving away from our poor record in inequalities. But public service reform has too often been measured and debated in terms of whether or the extent to which it has diverged from what was happening in England instead of whether reforms create changes in outcomes for people here in Scotland.

A related challenge is the danger of drift. Once more, we see a zero-sum game in operation. Other services are cut as the NHS eats up a larger slice of the Scottish budget. Many of our most cherished public bodies have become ossified and local government has been hollowed out, putting enormous pressure on front line workers who have been left to make the most of a bad situation. The public support the National Health Service – the most cherished part of the welfare state – but what is the NHS? Is it the institutional architecture, rules, HEAT targets, doctors, nurses, cleaners or other low-paid staff? Is it the improved health outcomes? All too often these are conflated and confused and the focus on service improvement and better outcomes – which should be defended and rewarded – are all too often ignored while institutional structures are placed on a pedestal impervious to criticism. Reform is needed

and it will require a party with new ideas, courage, and an ability to mobilise support at local level to drive change.

A tick box attitude to policy making often infects politicians and senior policy makers who assume, or purport to assume, that the job's done once the policy is in place, a statement is made, or a law is passed when the job has only just begun. In most areas, policies are never finished, the box can never be ticked. The process is cyclical, returning again and again to the same. The diversity of the human condition and continually changing contexts mean that policies need to be constantly reapplied, renewed, reviewed and adapted.

As Welsh historian, Nye Davies wrote of his namesake, on the seventieth anniversary of the foundation of the NHS, the 'greatest tribute' we could pay to Nye Bevan would be to 'engage critically with his ideas and assess their relevance today, whilst attempting to capture the fire that burned inside this 'projectile discharged from the Welsh valleys' and 'move away from simply talking about 'Bevan's legacy' or the 'principles of Bevan' and engage with his ideas and what they mean for society and policy-making today'. (Davies, 2018)

The issues faced by Scotland in the next parliament and beyond will require considerable innovation and leadership. That alone is not easy but more so when combined with a difficult fiscal backdrop and competing demands on resources. The precise impact of Brexit is unclear. The impact of the pandemic will not end when Covid-19 has been eradicated or, more likely, has been controlled. The economic and social fallout is currently incalculable but public bodies are preparing for challenges ahead and will need to be allowed to be more flexible, bold, and imaginative than at present.

Solutions also need to be joined up. Many of our most vulnerable fellow citizens need the support of a range of services. In most cases, though this is rarely acknowledged,

our responses have been piecemeal, siloed and at best only alleviate problems. Difficult “wicked problems” compete with other easier to solve challenges that there is little political will to address. There is little political capital to be gained from resourcing groups least likely to vote at the expense of, for example, our growing elderly population, a substantial part of which is highly likely to vote. This is not to dismiss the changes posed by a growing elderly population but highlights how a highly visible, vocal group can exert influence more easily than people who are neither organised nor vote.

But this approach is short sighted and self-defeating. The savings in the medium to long term that accrue from reducing “wicked problems” would be considerable. John Carnochan, a leading proponent of reform, tells the story of ‘David’ (Carnochan, 2015). David was a boy born in one of Scotland’s most deprived communities with an abusive family who is rehoused eight times during childhood. By the age of 15 he has various criminal convictions and, by 16, he is imprisoned for murder. The case is an extreme example of personal tragedy and lost potential, but demonstrates the difference that could be made by focussing on some of the most difficult problems our society faces.

But recent years has seen our capacity to invent new language for old ideas exceed the political will to address these issues (Advanced Childhood Experiences being a recent case in point). David’s childhood experiences are all too often placed in the ‘too difficult to tackle’ category. The political imperative of being seen to do something can result in initiative piling on initiative with accompanying new demands to learn new procedures and rules for over-stretched staff who would rather focus on core activities and outcomes. The challenges of the next parliament demand a focus on our most difficult “wicked problems” and an approach that matches rhetoric with action.

Interests, ideas, institutions and leadership

However, governing and campaigning cannot be easily separated. And the sheer number of elections and referendums over the past decade has rarely allowed governing to break free of the campaign cycle (if that is ever possible). More than ever, our politics incentivises short-termism. The campaign mindset overshadows the governing mindset resulting in sub-optimal policy making. While it might be argued that this allows the public more input into decision-making, it also means that decision-makers are reluctant to pursue policies that might involve short term pain for long term gain. Electoral risk is too great a price and so comparable bold initiatives of great policy interventions of the past are rare.

Interests and institutions create policies but policies and institutions also create interests that demand to be served. Amongst the greatest challenges for politicians and policy makers is reforming an existing policy with its attendant interests. Rather than doing this effectively, much time and effort goes into firefighting, responding to weaknesses in existing policies and institutions. This is exacerbated by the short-term demands: the incessant 24-hour media cycle; electoral cycles; measures and targets; and austerity. Even in the good times, when money is awash, the tendency is to create new policies and institutions and leave existing ones in place, leading to a cluttered policy landscape. The emphasis on communication and incessant campaigning over governing contributes to short-termism and a sticking-plaster approach to policy making. But, equally, there is a delicate balance between reform and removal, avoiding throwing the baby out with the bathwater.

A key challenge for the next parliament and government will be balancing responding to immediate and pressing problems while keeping an eye on long term goals. Policy makers can all too easily, and understandably, get bogged

down in the here-and-now and neglect longer term strategy. There has been a tendency to set very long-term goals – whether on child poverty or environmental sustainability – and space needs to be built into strategies for regular appraisal on progress. But appraisals have a tendency to become tick box exercises or slaves to limited measures. The danger that arises, as Jerry Muller amongst many others have noted, is that metrics can ‘distort, divert, displace, distract, and discourage’ (Muller, 2018).

The form of leadership required needs to be permissive and allow for long-term planning. We currently place too high a premium on the communication and debating skills of leaders and too little on understanding policymaking. Shocks and crises may create opportunities for bold change. Never let a crisis go to waste, as has often been said. But, a crisis on its own does not lead to change. Ideas, leadership and mobilisation are required. The Covid-19 pandemic may create the opportunity but whether this crisis will go to waste will depend on whether leaders have the skills to take advantage. The alternative is incremental change but with a clear purpose and would usefully include decluttering, standing back and letting service providers get on with properly remunerated jobs.

Another “1945” moment

From one angle the foregoing discussion might appear pessimistic. There are no quick fixes, no easy answers. The journalist and satirist H.L. Mencken’s comment seems apposite, ‘There is always a well-known solution to every human problem – neat, plausible, and wrong.’ But from another angle, there is every reason to be optimistic. There has been remarkable progress in the past. This required preparation, honesty, perseverance and purpose.

Many of the greatest public service achievements began as outlandish ideas, dismissed as too costly, too idealistic,

too bureaucratic, too controlling. Alexander Dumas, the nineteenth century French writer, maintained that every human advance was opposed by 99 per cent of humanity at the outset who were later pleased with the changes. From before the introduction of vaccination to prevent the spread of smallpox opponents have railed against public policy interventions. The remarkable improvement in life chances achieved by public policies cannot be doubted.

Brexit and Covid-19 add to the uncertain environment in which policy making takes place but also create conditions for boldness. Another '1945 moment' is possible, though very different. Large scale new institutions are unlikely to be part of the future. But such 'moments' soon pass and we are left with their legacies. The bigger challenge may lie in how we breathe new life into our existing institutions and how the Scottish Parliament can rise to this challenge.

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6 | THE MEANS TO AN END

Sarah Boyack MSP

Commentators looking in at Scottish politics from the outside often portray the SNP government as a left-leaning government constrained within a union that is pulling ever further rightwards. But for those experiencing the reality of the SNP government you see neglect of the areas it has power over and a fixation on using the constitution to provide excuses for a lack of action. The result? At best, warm statements about ambitions for a fairer, greener, more progressive Scotland. At worst: rising poverty levels, a deepening educational attainment gap, a social care crisis, and a bleak future for many young people left behind and not able to get into the labour market.

The reality is that the SNP has been in power for almost 14 years. To put this into perspective, young people leaving school this year will have spent their entire time in education under SNP-led governments. Education is one of the SNP's biggest failures and combined with rising poverty and inequality, it has left young people with fewer choices and opportunities; a situation likely to be exacerbated by the economic fallout from the Covid-19 pandemic.

The pandemic has changed the world, and with it brought immeasurable sorrow. The lives lost, and the toll on families, friends, and communities will continue to be felt for years to come. However, amongst the frustration and

upset, there is a real opportunity to build back better. The next Scottish Parliament gives us an opportunity to focus on recovery to eradicate inequalities, establish a National Care Service, to protect our environment, create jobs for good, promote active travel, and truly connect our communities.

One of the key obstacles to achieving this is the government currently in power in the Scottish Parliament. The SNP government is more focused on retaining its lead in the opinion polls than taking the decisions we urgently need. If the SNP win a majority in May it would undoubtedly push for a second independence referendum. Yet the division and diversion from delivering the Covid-19 recovery we need would mean that political leadership would be focused on looking at where power should lie rather than getting on and using these powers to deliver the just transition we need to rebuild our country.

Comparing Labour's time in power with that of the SNP, it is clear that we were much more interested in actually using the powers of the new parliament to drive the radical change Scotland needed, than the SNP has ever been. When we first came to power in 1999, we had the opportunity to shape Scotland's recovery after eighteen years of Tory government and to use the energy and investment that came from the early years of the UK Labour government. The Scottish budget doubled, opening up huge opportunities for delivering on our ambitions.

We worked tirelessly, making the most of the new powers we had at our disposal.

The achievements of Labour's years in power in the Scottish Parliament were many, from the smoking ban, the abolition of feudalism, land reform, to free bus travel for the over 65s and the scrapping of tuition fees. But it is ironic that some of these policies implemented by a Labour/Lib Dem coalition are now seen in the minds of the SNP and their supporters as synonymous with the Scottish Parliament.

We also take for granted now the ground breaking impact of the 20 year long campaign that ensured that 50 per cent of Labour's MSPs were women. Being able to have women to speak directly from their own experience, on domestic violence, the need for affordable, quality childcare and having women ministers in charge of subjects that were historically seen as male preserves were game changing.

In contrast, the SNP minority government are focused, some would say obsessed, with constitutional change and retaining power. Consequently, 20 years on, we are still to see the maximum use of the powers which makes Holyrood one of the most powerful devolved parliaments in the world.

There is growing evidence of poor decision making by the SNP government, and signs of disillusionment. The Hate Crime Bill (subject to the most recent U-turn by the Scottish Government); abject failures in educational attainment and the embarrassing turnaround on exam results; the Calmac Ferry fiasco, the neglect of our care homes and most recently the appalling treatment of students through lack of foresight and action during the pandemic are all signs of a government that is focusing on headlines, but not on delivering for our constituents, even if it is not yet reflected in the opinion polls. But it is not enough for us to be critical. Instead, Labour has to be clear about what we would do better and differently, and how. We have to articulate a clear vision of how we would use the power of the parliament to transform our country.

Our biggest failure in those early years was to allow being in a coalition to blunt our messaging; people were less aware of our vision for Scotland once we'd gained power and we did not tell the story of the transformation we were delivering to improve people's lives.

Looking back now on the rare occasions when we did not agree with Labour colleagues in the UK government we focused on resolving issues so that we could get on with our plans. Over time we had different approaches, sometimes we were ahead of the agenda and delivered new approaches such as free bus passes for the over 60s. On other occasions it was to address very different needs, for example on encouraging more young people from abroad to come to Scotland to study at our universities. Bus travel was totally devolved, whereas the Labour-led coalition's work on overseas students stretched into immigration territory.

In his Donald Dewar Lecture on the 20th anniversary last year former Labour First Minister Jack McConnell said "one of the most surprising realities of the last few months" has been the apparent lack of regular communication and coordination between Scotland's two governments.

He added: "I cannot imagine a situation where Donald would have tolerated weeks or months going by without direct one to one communication with the Prime Minister and some attempt at joint communication to reinforce the health messages."

In Donald Dewar's first cabinet I served as the minister in charge of Transport and Environment (including Town Planning). In 1999 we had big ambitions and big plans for the environment, planning, and transport. I established Scotland's first national parks, established free bus travel for the over 60s, dedicated investment for buses, walking and cycling and the first 20mph zones. I also oversaw investment in rail, opening new routes such as Stirling to Alloa and Larkhall to Milngavie and gave the green light for the Borders Railway.

In the next parliament we need that kind of big thinking again, I want us to address the climate emergency, to rebuild our communities, to kick start the economy, and to meet people's housing needs. In building back better we

shouldn't be constrained by traditional portfolio spending restrictions and we have to think outside the box. One of my priorities since returning to the Scottish Parliament has been trying to track the use of Barnett Consequentials to boost investment in infrastructure. But due to the financial framework agreed by the SNP, the biggest transport infrastructure programme, HS2 delivers no financial benefits to the Scottish Government. Whereas I would propose spending to extend Edinburgh's tram network.

We need to turn our attention to walking and cycling, to reliable, more affordable bus routes, and the investment in and control of our railway network to ensure the connectivity and affordability we need if we are to make the transformational shift to the low-carbon economy we urgently require. We should be arguing for connecting communities, removing the need for cars to make local trips, protecting our environment and seeing healthier neighbourhoods as pollution levels drop. But that ambition needs to be underpinned by joined up investment linked to regenerating our high streets, encouraging people to buy local and linking where people work and study to their homes. We need to look to build the quality of infrastructure that is standard practice in other European cities.

One area where the Scottish Government could deliver a transformational change would be supporting local authorities to replan and reinvest in our communities. We can see our shopping parades and city centres change before our eyes. They should empower our local councils to take the lead on providing low-carbon infrastructure at scale so that they can also invest in the skills and knowledge needed. Again, the headline ambitions look good but the hard work to deliver, complex challenging projects where our councils have to take significant risks has not been done.

These are just some of the many big-ticket issues where Scotland needs a government with more ambition to

tackle the inequalities that have been exacerbated by the pandemic and the challenges posed by the climate emergency. That means focusing on the day job. That will never be achieved while the SNP pour their energy into independence and get away with blaming the constitutional settlement for their failings. Therefore, it's up to us to provide the vision of an alternative future and the practical policies to deliver the Scotland we need.

So while I started by arguing by saying we focused on how we use the powers of the parliament to maximum effect, it doesn't mean that we don't need change. The recent publication "We, the People: The Case for Radical Federalism" (Antoniw et al, 2021) focuses on key principles of democracy, fairness, justice, climate stability and equality. These are ambitions which we can all sign up to.

It would be unthinkable for us not to have the Scottish Parliament but under the SNP we've seen a centralising government taking powers from our councils, with budgets that have not kept pace with the demographic changes and new services they are expected to provide. The call from COSLA for fairer budgets for councils is not just to get through the pandemic but to enable communities to have the services local people vote for in the long run.

That's why we've been arguing for fairer budgets and to ensure our councils are given the respect and powers they need to support their communities. And we want more financial powers for our councils for example to implement a tourist Levy if they want.

The Scottish Parliament passed stage one of the legislation being proposed by Andy Wightman MSP to put the European Charter of Local Self Government into law. The Labour government signed the charter in 1997, so for Scottish Labour it's unfinished business. It fits in with the ambitions of the reforms proposed in the "We, the People" report.

It's been interesting to watch the Scottish Government change tack over the last few months on how they have talked about working with local government. In the summer the micro managing of the passing on of Barnett consequential to our councils was embarrassing. The stand Andy Burnham took during the pandemic demanding that English mayors were treated with respect by the UK government and given the funding to support their communities was a wakeup call and a warning not just to the UK government, but to the Scottish Government too.

The language has become much more respectful in recent months from SNP ministers, praise for the work of our councils to respond to the pandemic has become more frequent. In recent months COSLA leaders have become more critical of the lack of funding being allocated.

The recent Feeley report which recommended removing care from local government incensed leaders who voted unanimously to condemn the proposals. As one council leader put it to me, the issue of underfunding has been at the heart of the care services for years and without solving that, there is no solution to the challenges the review was established to address. As a contrast the proposals for a National Care Service which Scottish Labour had been working on focused on national standards, national pay that would ensure that this historic failure would have been addressed. Hence our call for £15 an hour as a basic minimum and investment in social care as a career option as a way to reward and retain staff in the sector.

The Constitutional Commission proposed by Keir Starmer is potentially a game changer. The last thing we want in Scotland is another divisive Independence referendum, but there is an appetite for change which we need to address head on which has been reflected in the recommendations of the Citizens Assembly. The shared culture and history we have with the other UK nations, our families and friends also needs to be part of our story going

forward. The loss that many of us felt when the Tories took us out of Europe should give us a warning of what we would have to lose in terms of our identity and human connection that would be destroyed by the SNP's independence plans.

If Brexit has taught us anything over the last few years it is that there are huge costs of uncertainty when you split from your neighbours, there is division and uncertainty, a huge economic cost and a massive diversion from tackling the poverty and inequalities. But a federal approach which has respect between different governments as a core principle, with power shared not centralised would. Our ambition should be that every citizen has the capacity to influence the change they want to see in their community and that we work across the UK together for our common interest.

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7 | A PARLIAMENT SHAPED BY ITS CITIZENS

Margaret Curran

When I arrived in the Scottish Parliament in 1999, it was with years of campaigning for the its establishment behind me. I had voted in the 1979 referendum which failed to deliver a Scottish Assembly and the events of the 1980s made me even more convinced of the need for one. But my politics had never been about the constitution. They had been about my feminism, my belief in social justice and delivering for working class people across the country. That is what I wanted a Scottish Parliament to prioritise for Scotland.

Decades have passed since those campaigns and in the intervening years, I have served as an MSP, a minister in the Scottish Cabinet and as an MP. I served on committees that sought to reform the Scottish Parliament and was closely involved with Labour's Devolution Commission ahead of the 2014 referendum, which committed the party to even greater powers for Holyrood. Now, my experience as an adviser to emerging democracies and work with agencies promoting good governance worldwide is giving me a new perspective on questions about how to improve our own democracy. With the Scottish Parliament now past its teenage years, it is worth casting a critical eye over its progress and considering the ways in which its work can be strengthened. It is also worth asking if the

Scottish Parliament has met the high ambitions set before its establishment. It has been an undoubted success as it has embedded itself in the politics of Scotland, as the polling by the Fabian Society makes clear, but now it must develop further to meet the demands of new times.

For those of us who want the parliament to succeed well into the future, it is time for an appraisal. And as it approaches its sixth set of elections and a likely influx of new MSPs across all parties, that is crucial. As I've learned from my work outside of the UK, a healthy democracy requires us to question how our institutions function.

This chapter is not an attempt at a comprehensive assessment of the performance of the parliament. Rather, it is a collection of reflections on the development of an institution I was proud to be part of, and which I want to see improve and prosper in the next twenty years.

Assessing parliament's effectiveness

The Scottish Parliament is undoubtedly seen as a success both at home and abroad. As the research in this book shows, the level of trust in the institution clearly indicates progress since the parliament's early days. But has the Parliament succeeded in meeting its own standards for success over the past two decades?

Well in advance of the first meeting of the parliament, the Consultative Steering Group, chaired by Henry McLeish, had set out some broad principles under which the parliament should operate. These principles provide a good basis on which to start to judge the last 20 years of the parliament and ask where there is room for improvement.

- The Scottish Parliament should embody and reflect the sharing of power between the people of Scotland, the legislators and the Scottish Executive.

- The Scottish Executive should be accountable to the Scottish Parliament and the Parliament and Executive should be accountable to the people of Scotland.
- The Scottish Parliament should be accessible, open, responsive, and develop procedures which make possible a participative approach to the development, consideration and scrutiny of policy and legislation.
- The Scottish Parliament in its operation and its appointments should recognise the need to promote equal opportunities for all.

(Key Principles adopted by the Consultative Steering Group on the Scottish Parliament, outlined in 'Shaping Scotland's Parliament', HMSO, 1998)

Power sharing

The Scottish Parliament was intended to establish a “new politics” and central to developing that was a new relationship between the parliament, the Government and citizens.

It was thought that the system of proportional representation would encourage greater co-operation between parties and that the Government and Parliament would operate in a power sharing arrangement that would reduce the adoption of an adversarial “Westminster” style of politics. Institutional mechanisms, such as a strong committee structure, including a petitions committee which would hear directly from the public, would allow individual citizens to have their voice heard and they would be supported in the process of doing that.

As others have said, the idea that Scotland could begin with a 'clean slate' was optimistic. While the PR system did result in coalitions for the first eight years of the parliament, the debates between Government and opposition were still adversarial. Unsurprisingly, it was not as easy as many had envisaged to create a new political culture among a group of people who had spent a significant amount of their political lives in opposition to each other.

However, effort was made in the way that the parliament operated – with family friendly hours, publicly accessible committee structures and a Parliamentary Bureau with representation from the Government and all parties – to ensure that power sharing was enshrined at the heart of the parliament.

However, the past two decades have seen power sharing decline in the Scottish Parliament. There are many reasons for this but the election of a majority Government in 2011 and a near-majority in 2016 has limited the role of smaller parties and created a government majority on parliamentary committees. This is never the way that many across Scotland envisaged the parliament developing and, without a revising second chamber, the inbuilt majorities at every stage of the legislative process has concentrated more and more power in the hands of the Government.

In the next session of parliament, more attention must be paid to reforming the way that the Committee system operates. Comment has been developing over recent years at the increasing grip of the party whips on committees and the smothering effect that has had on any attempts to conduct thorough scrutiny of the executive. This needs serious attention as the work of parliamentary committees are central to effective scrutiny. Given recent events there needs to be a review of the powers and functions of the committees to ensure they are fit for purpose and are supported by the resources they require to carry out their duties.

While party business managers may resist the idea, the parliament should look closely at making Committee convenorships and Committee memberships elected positions. This would have the effect of providing an alternative 'career path' to ministerial office and reduce the Government's influence. Westminster has adopted this with great success, and it has resulted in stronger committees and improved scrutiny.

Accountability

Parliaments across the globe, play a crucial role in the delivery of good governance through their functions of oversight and scrutiny. They have key powers in relation to holding the government to account and raising the concerns of citizens directly with those in power. It is in the best interests of citizens that they exercise these powers through a fully transparent process.

The Scottish Parliament has gone a long way to closing the democratic deficit that existed prior to devolution. Ministerial questions are a staple part of the parliamentary day and are a source of information and critical tool of government oversight.

Many of the most important parliamentary moments in Scotland in the past two decades have arisen from questions in the Scottish Parliament and – even in the time of majority government – they are an opportunity for the opposition to have their say.

However, once again the parliament's accountability function is falling far short of the original aspirations of those of us who campaigned for the parliament. The theatrical and adversarial style of questioning is still very much a feature of our politics, with First Minister's Questions (FMQs) providing a weekly spectacle. While dedicated First Minister's Question sessions were not a feature of business at the outset of the Scottish Parliament, they were

created and then moved to a special weekly slot in 2004. While this did increase scrutiny of the First Minister, it also introduced a style of politics that the parliament had originally avoided.

The parliament must demonstrate its scrutiny function far more emphatically and make clear how it exercises its accountability function. There are palpable signs of frustration emerging in Scottish society that this is not happening effectively. This shows itself in question time and particularly FMQs where backbenchers do not have enough time and even when they do, many ask soft questions of government ministers. There needs to be more time for backbenchers and a culture of effective questioning must develop.

Recent reforms such as topical and urgent questions have increased the scrutiny of individual ministers. Urgent questions have provided a useful way for opposition parties to raise issues without having to wait a week or more for the relevant question session. This has been one of the most important and significant changes for government accountability in this parliamentary session, but much more could be done to make them a central part of life in Holyrood. Only 20 have been asked in this parliamentary session and only one in the whole of 2019.

Accessibility

Ensuring an open and participative process for the development and scrutiny of policy and legislation is essential for the health of any democracy. There are three aspects of this that are important in examining the Scottish Parliament: the ability of backbenchers and opposition parties to influence legislation and government policy, the access given to citizens to influence the work of parliament and the health of the wider policy environment in which the parliament works.

On all three, the Scottish Parliament is falling short. Firstly, the original plans for the parliament envisaged a collaborative relationship between backbenchers and the government, but the experience of recent years (with increasing dominance by the government) has seen backbench voices marginalised in terms of influence over legislation. The one exception to this are Members' Bills, which have (with government backing) seen opposition and backbench MSPs push forward with their own legislation and have reached a peak in this parliamentary session. The ability of Committees to propose their own legislation has also rarely been used with only five laws created using this route, with a further three progressing through Parliament now. In looking forward, it is for new Members of the Scottish Parliament in the next session to look closely at how these routes could be used to pursue legislation and generate debate.

Secondly, the Scottish Parliament was intended to bridge the democratic divide between the Government in Scotland and the people. Measured by trust in institutions, it has succeeded (as polling for the Fabians has shown), but judged by the citizen's ability to influence government, we still have a long way to go. The public petitions committee (one of the most direct routes for citizens to interface with parliament) deals with fewer than 200 petitions a year and while experts and individual citizens can provide evidence to parliamentary committees, there is limited analysis of how significantly (or not) their views impact policy and legislation. There has also been a tendency for evidence sessions to rely on the voices of representative groups rather than to try to bring the voice of citizens directly into parliamentary proceedings.

Finally, creating good laws and influencing policy also requires a wide and diverse policy community supported by a well-resourced media that can use their output. When the parliament was established, we envisaged a

proliferation of think tanks and policy institutes across Scotland and the continuation of a strong and well-resourced media. Twenty years on, our think tank and policy community in Scotland is still small and our media has become less well-resourced. While not an issue for the parliament directly, it is still something that impacts significantly on its ability to perform its functions effectively. More thought must be given in Scotland to how we can create independent and impartial policy and research organisations and how we can encourage and support high quality independent journalism.

Equal opportunities

Equal opportunities, as it was described in 1999, was a flagship commitment when the parliament was inaugurated. The ‘family friendly’ hours of the parliament have remained largely intact, and issues relating to women have frequently had a place in the mainstream of parliamentary debate. However, the representation of women has gone backward. Now, only 35 per cent of members are women – far from the 50/50 aspiration and even below the 40 per cent we achieved after 2003.

There has been important progress particularly around the representation of women, but recent challenges have not been addressed as thoroughly as they need to be. The departure of MSPs with young children, particularly mothers, should be noted and recent demands for a more mother friendly parliament should be investigated and addressed. So too, the lack of any ethnic minority women’s representation is an ongoing cause of concern as is the under representation of the LBGTQ community.

We cannot afford for progress to continue to go into reverse and, while much of this is the responsibility of individual parties, the institution also has to take responsibility. In 2018, the UK parliament published the “UK

parliament Gender Sensitive Parliament Audit”, conducted in partnership with the Inter Parliamentary Union. It is time that the Scottish Parliament did the same. It is not sufficient to congratulate the parliament for initiating programmes and projects around equal opportunities, the next five years have to be focused on delivering real outcomes.

A Scottish Parliament shaped by its citizens

Looking back on more than 20 years of the Scottish Parliament, there is much of which we can be proud. As an institution, it has enshrined itself at the heart of our politics. However, we need to be fully aware of the challenges it faced and the areas that require improvement.

The parliament should be a reflection of modern Scotland and should be shaped by its citizens. In recent years, it has become too dominated by an overbearing executive. Members should look to rebalance this relationship and to re-establish some of the original principles on which the parliament was founded.

The Committee structure should be strengthened with elected Convenors and members who can detach themselves from the influence of Government. The parliament should look again at its processes for questioning ministers and holding them to account to ensure this can be done quickly and responsively. And individual members and committees should use their powers to initiate new legislation, to provide a balance to Government dominance.

Outside of the parliament, more effort must be made to bring citizens into the process of scrutiny and policy development, and move beyond interest groups for evidence and expertise. Finally, parliament – and everyone involved in Scottish public life – has to have one eye on the health of our democracy beyond Parliament by encouraging well-resourced and independent public policy organisations and a strong media to hold parliament to account.

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8 | DEVOLUTION'S MISSED OPPORTUNITY

Councillor Eva Murray

The intention of devolution is to push power to a more local level and bring the politicians making decisions closer to the people. Prior to devolution in 1999 – so the story goes – power was remote and unaccountable to people in Scotland. This is certainly true, but was it really that simple?

The period before devolution was a period of activist local government. Regional councils, like Strathclyde, pioneered policies that the last UK Labour government used as models for the whole country. Glasgow City Council, provided a strong voice in opposition to the Tories during the 1980s and led innovative programmes that changed the face of the city.

The Scottish Parliament gave us an opportunity to build on this and the story of Scotland's local government could have been one of hyper local representation sitting alongside a Scottish Government that provided the freedom for local authorities to deliver the services best suited to their populations.

Unfortunately, the story has been very different. The current settlement for local government is not working. Instead of a national government providing freedom, we have a Scottish Government intent on centralising power, taking opportunities away from local authorities.

Councils are increasingly the means of local administration rather than genuine local government. Freedom has been constrained by austerity and our ambitions reduced to delivering legally bound services rather than thinking creatively about plans to improve people's lives, empower communities or revitalise local areas.

As Labour embarks on its Constitutional Commission, we need to ensure that the voice of Scottish local government is not marginalised. Devolving powers from Westminster to Holyrood is important, but it is only part of the process. Councillors have a real opportunity to make the case for devolution to go one step and potentially two steps further. We should be arguing to empower our local councils effectively, to enable them to fully tackle the sometimes very unique geographic challenges and also to devolve power even further into the hands of communities. This should be a major part of the agenda for Labour's Constitutional Commission and our proposals for a new settlement at the next UK General Election.

This bold thinking will provide an opportunity for us to have a debate around the powers of local government. It will also allow us a chance to bring substance to our calls for empowering communities and rebuilding people's trust by putting power in their hands.

The state of play

Since 2013, the Scottish Government's budget has been cut by 2 per cent by the UK government. But in the same time, Scottish local authorities have seen a 7 per cent reduction in real terms coming from the SNP government. These continuous cuts mean councils across Scotland are now at the point where cuts to services are so deep that the question is no longer what skeleton services we can provide, but whether we can continue delivering them at all.

Even when it comes to the services that councils are legally bound to provide (so called 'statutory' services), each year creates a new struggle to make ends meet. These services – delivering education, protecting the vulnerable through social work and cleaning our streets – are essential and have a major impact on people's lives. Across Scotland we are seeing teachers paying for their students' jotters and stationery. Our carers – who are a lifeline to many of our most vulnerable citizens – are under more stress than ever before and correctly raising concerns about their health and safety. And cuts to cleansing services have meant a sharp increase in rat infestations, fly tipping and litter filled streets.

There is little prospect of things improving. Services are hanging by a thread and departments are having to survive year to year. They have no opportunity to look further ahead with any plans and as soon as one year's budget is agreed, officials are already looking to the year ahead to identify savings, all while demand for services is skyrocketing and will only increase in the years to come.

We cannot go on like this. We need to do things differently if we want to save the services in our cities, towns and villages.

The Covid-19 pandemic has presented local authorities across Scotland with even more challenges. Deficits are growing as income from arms-length organisations that haven't been able to operate fully leave a shortfall in budgets. Lifeline services are stretched, with budgets tight and more cuts coming down the line. The direct impact of the crisis on local government services will be felt for years to come.

The aftermath of the Covid-19 crisis demands that we do things differently. We have seen during the pandemic how important local solutions have been – most visibly

in the mutual aid organisations that appeared across the country, often to fill gaps in essential services. People are looking for localised solutions that only local government is in a position to deliver.

But to achieve real change we will need to think outside of the box and do things differently. The past year has disrupted our way of working, but it has also forced us to re-prioritise and highlighted the true extent of what these cuts are doing to our communities. The aftermath of this pandemic and the recovery to come is an opportunity to reflect on what we have learned and commit to building back better with local government at the heart of our plans.

That must start with giving councillors more freedom to meet the needs of their communities. Currently, Councillors are being restricted in the powers they can use and ultimately the actions they can take to improve their constituents' lives. This can be explicit, in partial transfer of powers away from local government, or more subtle, such as in the ringfencing of funds from Holyrood that reduces local government to local administration. From the outside, it appears that councils are empowered to make changes, but in reality, they're beholden to the Scottish Government, being undermined and often treated with contempt.

To enable our councils to deliver bold, progressive ideas (and not just talk about them), we need to transform our councils fundamentally. That is what any future devolution settlement needs to focus on – not just reform of the UK, but reform of Scottish devolution to push more power down from Holyrood to our local communities.

A radical plan for reform

The starting point must be to provide local authorities with the freedom to be true local government, and not just local administration. A good starting point would be to grant councils the power of general competence. This would lift restrictions imposed by central government and allow local government to use their initiative and judgement to make decisions on almost any matter.

This would be a sweeping and substantial change. It would still require political will in local authorities to use the power, but it could see councils empowered to introduce new taxes or take action to improve their local areas. It would mean the end of ringfencing funds by the Scottish Government so that councils could have more say on how their budgets are spent. It would mean that councils could prioritise their own local priorities and would stop the Scottish Government from passing on the bill for some of their flagship projects to local government.

The introduction of general competence powers opens up a whole host of opportunities for local councils. However, as I mentioned previously, it does all come down to political will from those in power to pursue those ideas and make a case for them. Many councils in England and across the EU already make use similar sweeping powers.

When plans such as these have been proposed in Scotland, they have been given short shrift by the Scottish Government. In recent years both Glasgow and Edinburgh have explored the implementation of a Tourist Tax which could raise millions in revenue for both cities, with just £2 being added to each night's hotel stay.

When Edinburgh City Councillors backed the proposal in 2019 the Scottish Government stepped in and blocked it. However, a short time later, they u-turned and supported taking the plans further in Edinburgh.

When it happened, the Scottish Government heralded it as a massive win for local government empowerment. However, in reality, it merely highlighted the flaws in the system and showed how councils had to beg the Scottish Government for permission to push ahead with even a modest progressive taxation plan.

These general competence powers would allow local councils to identify their critical areas of need. Whether that is in working with the third sector, innovating in health and social care, delivering education or increasingly, improving environmental sustainability. In all these areas, local government should be able to actively deploy plans without asking for permission from central government.

The powers would also allow councils to take further steps to create a more accessible, affordable and greener public transport network that puts people over profits; allowing them to secure socially necessary routes. Local authorities could decide to push power down even further to smaller communities and neighbourhoods, implementing meaningful community empowerment that builds wealth and gives ownership to residents. Giving councils the freedom to operate across all these areas means that we could get to grips with some of the deepest and most intractable problems we are facing by taking power into our own hands and focussing on the needs of our communities, not just on budget management and local administration.

These changes will take political will. As with powers devolved to the Scottish Parliament, it is not the means that we are interested in, it is the ends. As the debate continues around powers of general competence, we cannot let it be used as a tool by the Scottish Government to distract from the year-on-year devastation they have subjected local government to through their underfunding and undermining. However, as we continue to fight for that fair deal, this change would allow councils to do things differently,

think outside of the box, and take action on the issues they are hearing and seeing every day in their communities. It would at least give us a fighting chance of survival.

9 | LESSONS FROM SPAIN AND CATALONIA

Dr. Paul Kennedy & Professor David Cutts

The case of the Catalan Socialist Party (Partit dels Socialistes de Catalunya - PSC), the regional branch of the Spanish Socialist Workers' Party (Partido Socialista Obrero Español - PSOE) may prove instructive to the experience of Scottish Labour. The PSC has a unique status within the PSOE, possessing full sovereignty with respect to its activities within Catalonia, which has on occasion created tensions with Madrid. The importance of Catalonia to the PSOE is such that there is some truth in the adage that the electoral success of the PSC in Catalonia constitutes a prerequisite for the PSOE's triumph throughout Spain as a whole. The retention of significant support throughout the region was a key factor in the PSOE's period in office under José Luis Rodríguez Zapatero between 2004 and 2011 and growing demands for independence throughout the subsequent decade – the so-called *procés* – have until recently served to undermine the electoral strength of both the PSC and the PSOE. Both parties are united in their advancement of federalist solutions, rather than endorsing outright independence. Most importantly, the PSOE and the PSC have always endeavoured to demonstrate that their unambiguous rejection of independence in no way implies any dilution of their sensitivity to and endorsement of regional and cultural identity. The robust defence

of Catalan interests is not exclusive to those political forces advocating the region's independence from Spain. Quite the reverse: Catalonia's interests are best protected by the rejection of independence by a party, the PSC, whose Catalan credentials are as authentic as those of any other force operating within the region's political arena.

The sensitivity of the Catalan issue has been exacerbated by the existence of a 50/50 split between the pro- and anti-independence camps. This seemingly irrevocable cleavage within Catalan society was most recently displayed at the regional election held on 14th February 2021, at which pro-independence parties secured a narrow lead over their rivals, most probably leading to them forming another pro-independence administration over the coming weeks. From the point of view of the centre-left, the most important consequence of the Catalan election was the re-emergence of the PSC as the major anti-independence party. Indeed, the Catalan socialists had their best showing since 2006, obtaining more votes than any other party and equalling the 33 seats won by the leading pro-independence party, the Catalan Republican Left (Esquerra Republicana de Catalunya – ERC).

Divisions within both the pro- and anti-independence camps also played into the hands of the PSC, as voters opposed to independence identified the party as being the most effective advocate of Catalonia remaining within Spain. A combination of the choice of the former Spanish Health Minister, Salvador Illa, as the PSC's Presidential candidate, relative satisfaction with the coalition government's handling of the pandemic, and the collapse of both the liberal-right Citizens Ciutadans (Cs) and the centre-right People's Party (PP) were all factors in the PSC's revival. Moreover, even throughout the last decade, which has been difficult for the PSC, the party has been able to retain the support of a significant proportion of the Catalan electorate, suggesting that identification with the

party has remained relatively strong, enabling an effective party organisation both to mobilise its traditional support as well as reaching out beyond that base to the broader anti-independence electorate. It may be specifically in this area where there are lessons for Scottish Labour: despite relative electoral decline in Catalonia, the PSC took pains to nurture its organisation, whilst never taking its electorate for granted. Uppermost was the conviction that there was no room for complacency. Therefore, although the PSC was polling relatively poorly as late as November 2020, it was able, just three months later, to reap the benefits of its highly effective campaign strategy, presenting itself as a progressive force uniquely equipped to resist the drift towards independence. Weaknesses displayed by the other main anti-independence parties, the PP and Ciutadans, both of which could only look on with envy as the far-right Vox established itself as the largest party on the right of the region's political spectrum, served to reinforce the impression of the PSC's strength. Furthermore, despite obtaining over half of the vote, pro-independence parties obtained 630,000 fewer votes than at the previous regional election in 2017, indicating that mobilisation of the pro-independence vote could no longer be taken for granted. Indeed, the exceptionally low turnout – 55 per cent, 22 per cent below the 2017 figure (and hardly boosted by the pandemic, with postal votes accounting for just 5.3 per cent of the total vote) – indicated that many voters in the region were insufficiently enthused by the options on offer to bother to go out and vote at all. In this context, the PSC was able to reap the benefits of its professionalism, re-establishing itself as the main political party opposed to independence, whilst at the same time strengthening both Pedro Sánchez's position as prime minister and that of his government in Madrid.

Seeking to draw conclusions from the experience of one nation to inform what might happen in another is fraught

with difficulties, particularly in today's highly volatile political environment. Possible lessons must therefore be treated with caution. Nevertheless, it might tentatively be proposed that the PSC has, against the odds, shown itself capable of re-establishing itself as the most important political party in Catalonia opposed to independence, without in the process denying its adherence to the region's national and cultural identity. The PSC stands as an equal to the pro-independence parties, with no reason to consider its opposition to independence as being intrinsically disadvantageous. Quite the reverse.

The PSOE more generally has always considered itself to be a federalist party, sensitively responsive to regionalist demands, without this stance in any way serving to downplay its unambiguous advocacy of a coherent, united Spain. Nationalism is rejected unequivocally. Given the recent emergence of the far-right Vox, which has obtained considerable electoral support based on its outright opposition to any expression of regionalist sentiment, in the process shifting the centre-right PP towards similarly extreme positions, the more moderate, progressive stance on the regional issue represented by the PSOE is even more essential and has consequently attracted support.

A fact which has received insufficient attention over the last decade as Catalonia has occupied an ever more prominent position on the political agenda is that Spain boasts one of the most decentralised political systems in Europe. The process was initiated by the Constitution in 1978 and the PSOE, during its previous periods in office – 1982-96 and 2004-2011 – was one of the main architects and consolidators of the devolution of power to Spain's seventeen autonomous regions. It therefore has a long and proud history as the progressive, devolution-friendly political party which not only believes in Spain's system of regional autonomy but is prepared to defend it. Opposed to any region of Spain declaring independence, it remains

the main advocate of the system of devolution provided for in the Constitution, thereby favouring the use of existing powers to address regional demands whilst preserving national unity. This stance does not preclude imaginative approaches such as the amendment of Autonomous Statutes. Indeed, it was the Constitutional Court's adverse ruling on the 2006 reform of the Catalan Statute endorsed by the then socialist prime minister, Rodríguez Zapatero, which provoked a growing feeling of resentment which eventually gave rise to demands for independence. This resentment enabled the region's then centre-right government under Artur Mas to deflect attention from its implementation of swingeing austerity measures in the wake of the 2008 Global Financial Crisis by emphasising its newly discovered promotion of independence for Catalonia. The independence cleavage has subsequently trumped class as unlikely alliances have been formed by the centre-right Together for Catalonia (Junts per Catalunya), the anti-system ERC and the hard-left Popular Unity Candidacy (CUP), who are united by little more than a shared desire for independence.

Within this unstable situation, the PSC's moderation and consistency have left it well-placed to make further gains over the coming period as the chief advocate of an approach which stops short of independence, whilst offering a return to stability. Several thousand businesses have quit Catalonia over recent years, exasperated with the uncertainty which has characterised the *procés*. Moreover, the repercussions of the coronavirus pandemic may serve to push independence down the average Catalan citizen's list of priorities (45 per cent of the region's electorate abstained in the recent regional election) as an already high level of unemployment grows apace. Promoting credible solutions to such bread-and-butter issues offers the PSC opportunities for further advancement. If the party, which is already in receipt of the largest number of votes

in the region, can portray the shift towards independence as a distraction from these challenges, rather than a solution, further progress is possible. Moreover, the return of the PSC to prominence in Catalonia has also undoubtedly served to reinforce the PSOE government's position more generally. This is no mean feat for a social democratic party within the contemporary European political environment, which is hardly favourable to the centre-left.

To conclude, whilst it would be naïve to suggest that the PSC-PSOE's experience offers clear, transferable lessons to both Scottish Labour and the Labour Party more generally, it is nevertheless worth highlighting the fact that the Spanish and Catalan socialists have both successfully overcome unpromising situations to defy the odds and re-emerge victorious. Resilience has therefore once again been a defining feature of Spanish socialism at both the national and regional level. Yet it is important to stress that this stubborn endurance would have counted for little without an effective organisation primed to mobilise an electorate seeking change within a volatile and unstable political environment. Moreover, even during challenging periods, the PSC remained a formidable force within its Catalan strongholds, most particularly in the so-called Red Belt, the industrial zones around Barcelona and Tarragona, whose population frequently still has roots beyond the region. In such areas, the party's continuing presence in local government also continues to make a difference. It might also be recalled that, historically, the PSOE's local branch offices, or Casas del Pueblo, have taken pride in being the only institutions capable of competing with the Catholic Church in terms of having a presence in towns and cities the length and breadth of Spain. The challenge has been to adapt this ubiquity to the demands of the 21st century. If there is a lesson from the Spanish/Catalan example it is that support cannot be taken for granted, but that progress can be made on the back of effective

campaigning which makes the most of other parties' weaknesses within the context of hard organisational and mobilisational graft.

10 | UNINTENDED CONSEQUENCES

Brian Wilson

It is a curiosity of Scotland's constitutional debate that the likely implications of devolution were far more widely discussed and understood in 1979, at the time of the first referendum, than they were 20 years later. Those of us who opposed the establishment of a Scottish Parliament in 1979 were pretty clear that it would create a platform for the independence cause rather than erect a barrier. The reason seemed obvious.

If you create a parliament on the basis that Scotland is a nation, rather than as part of a rational structure for government across the UK as a whole, then there is no definable point at which a line can be drawn. No matter how many powers are transferred, the anomaly inherent in that asymmetrical nature of devolution persists, a point borne out by the FEPS/Fabians research in this publication. How this asymmetry is addressed is examined in Chapter 4 by Jim Gallagher. This chapter explores the impact of this on the national and political identity of Scotland.

The first consequence is that the role of the UK Parliament, and Scottish MPs' place within it, are changed irrevocably. Tam Dalyell's West Lothian Question went to the heart of the dilemma. Why should he, as a Scottish MP, be able to vote on education in Lincoln but not in Linlithgow? The answer – that Scotland is a nation and

therefore uniquely entitled to devolution within the UK – only adds to the paradox.

None of that is in itself a clinching argument against political devolution and regardless it is too late to put that genie back in the bottle. However, it is one that always had to be taken seriously if it was to be countered, in either intellectual or practical terms. It never really was. Instead, through the 1980s and '90s, the narrative was driven by other forces. It became the ascendant wisdom that devolution was an end in itself which would trump the demand for separation. Therefore, the paradoxes and anomalies it created could be safely overlooked.

While that was never very convincing, it remained a sustainable argument for as long as devolution was in the hands of politicians whose vested interest was in making it work. Once it was taken over by those whose interest was in magnifying its inadequacies – real or invented – rather than delivering its benefits, the die was cast for the kind of grievance driven politics of division with which we have become familiar, all of it pointing in only one direction.

For any government to be accountable, it has to be perceived of as having responsibility for its own successes and failures. For those who wanted to make devolution work, that was a challenge by which they expected to be judged. For nationalists, the challenge is greatly reduced because there is always someone else to blame – the UK government – and another constitutional option to propagate.

From the moment the Scottish Nationalists took over the levers of power at Holyrood in 2007 (facilitated, it should be remembered, by the Tories), every action has been motivated by the desire to drive difference with the rest of the UK and to transfer responsibility for every failing. Whether it is about not enough money or not enough powers, there will always be some other factor

to blame, and all in the name of “Scotland” rather than a political party.

That is the unique privilege of a party that claims to be “national’ rather than representing any class interest within a society. Every funding dispute or invented grievance can be presented as a slight to the nation rather than to the political priorities of a self-interested party. There will always be a market for the idea that Scotland is being sold short because it is Scotland, rather than that Scotland is being failed by this constant search for points of division.

As the past thirteen years have confirmed, it is a difficult formula to fight and the divisions encouraged by the referendum in 2014 have greatly exacerbated the problem for those who support the union. It forced voters, including many for whom the constitution was of little interest, to place themselves on one side or other of a black or white argument.

Without robust, coherent and effective opposition from Scottish Labour the SNP will continue to be seen as the party to “stand up for Scotland” and consequently attract support from large numbers of former Labour voters, pretty much by default. As the polling shows, Scottish voters’ priorities are in the areas of policy formerly associated with Labour strength. Scottish Labour needs to recapture that agenda – but how?

At a UK level, the Labour leadership must take “the Scottish problem” far more seriously. Unless there is a significant Labour recovery in Scotland, there is far less chance of a Labour government at Westminster. And the longer nationalist hegemony in Scotland continues, the more opportunities they will have – with all the levers and money at the disposal of devolved government – to drive the divisions which might ultimately lead to the break-up of the UK and of the British labour movement.

Of course, there are also forces at work that are by no means restricted to Scotland and which must be much more closely analysed and understood within our own

context – alienation, populism, the power of social media and so on. They all conspire in favour of an “alternative option” when it appears to present itself – large parts of nationalism, Trumpism, Brexit are out of the same stable, even if bedecked with different colours.

Recently we did see a counter to the version of identity politics and populism we have become used to in the actions of Marcus Rashford who reminded us, with his campaign for free school meals to continue through the school holidays, what progressive politics can be about – focused, grounded in experience and winning a practical victory for those in greatest need.

No one should try to pin a political badge on Mr Rashford. He is far more valuable when his only job description is “of Manchester United and England” but he is certainly an example of a progressive English national identity. Within 24 hours of his superb letter to MPs, the governments responsible for education in England and Scotland had announced continuation of free school meals through the summer holidays, Wales having led the way in April.

In an age when identity politics has become the norm, this episode should remind us that the basic divide is (or should be) what it always has been – between those who have most and those who have least.

Nationalism is probably the most difficult populism to address because it has so many component parts. At its most successful, the SNP’s slogan are simple and straightforward: “Put Scotland First” or “Stronger for Scotland”. To the unwary, it was and remains an attractive proposition which appears to transcend interests of party and class. The idea that there is a unified “Scottish” interest, which can be addressed through a single party, is at the heart of the SNP’s appeal.

The regular expansion of Holyrood’s powers has done nothing to diminish the popularity and prominence of the SNP trend; quite the contrary. The more that is devolved,

the less easy it is to argue – at least on a superficial level – why we should not go the whole hog. A new generation has grown up which knows little of what Labour governments delivered in the past and sees politics, insofar as it sees politics at all, largely through the prism of Holyrood. Focus groups carried out by the Fabians shows that many of the Parliament’s achievements named by voters are wrongly assigned to the later SNP administrations rather than the first Labour/Lib Dem coalitions or Labour governments pre-devolution at all.

Supporters of the union who believe that the answer lies in an auction over “powers” are doomed to lose since they will always be outbid by those who are contemptuous of anything less than full independence, regardless – though these are words that are never spoken – of consequences. The entire mentality is based on the principles that they only have to win once and that the end will justify the means. Nobody should ever forget the shameless mendacity of the 2014 White Paper or what would have followed if its authors had prevailed.

Telling the truth about Scotland’s economic relationship with the rest of the United Kingdom will always be portrayed as “project fear” but it has got to be done with consistency and honesty in the belief that, ultimately, there is an audience for these commodities. The economic argument alone is not enough, however, to counter the emotional appeal of nationalists and the craving for simplistic solutions.

To counter the constant negativity about our place in the United Kingdom, there has to be a persuasive effort – primarily by Labour – to remind voters of what working together has given us and how together we have been become stronger through shared struggle.

We need to argue for the benefits of unity within a small island and the foolishness of creating new borders in the 21st century. We need to win a philosophical and

cultural argument to which young Scots are currently barely exposed.

The SNP make a strong pitch for the Scottish “creatives” backed up by thinly-disguised control over the funding prospects for those who dissent. Yet most of the artistic talent in Scotland – as in any country – is outward looking. In particular, whether in music, theatre or literature, it benefits from being part of a wider UK audience. That case is scarcely made as a counter-poise to the constant effort to define our identity and parameters as “Scottish” to the exclusion of the audiences and creative stimuli which are inherent, outside politics, of us being part of the whole island in which we reside, as well as of Europe and the world.

There is no more defining symptom of how this introversion stifles Scottish creativity than the complete absence of satire or even political humour surrounding our domestic affairs. Sharp-witted Scottish comedians and commentators crop up frequently to exude irreverence on UK outlets towards UK politicians, public figures and institutions. There is absolutely no place for them in Scottish broadcasting and very little in live performance. Any attempt to break that grip leads to the perpetrators being bombarded with online abuse and complaints to broadcasters. Thus a safe silence is achieved and Scotland is diminished by it. Maintaining a diverse and challenging Scottish identity requires people in all forms of art – as well as the media and politics – to assert the right not to subscribe to the prevailing orthodoxy.

Time is not necessarily on our side. Once handed the levers of devolved power and the money that goes with it, the nationalists have been exceptionally efficient at shutting down points of challenge and increasingly identifying their own brand of politics with a narrowly defined Scottish interest and identity. The longer they occupy that position, the fewer dissenting voices will make themselves heard. Those of us who see political nationalism as the

antithesis of all that is best in the Scotland we identify with need to be better at pointing out the uncoolness of conformity and the duty we have to challenge it.

AFTERWORD: AGENDA FOR ACTION

Martin McCluskey and Katherine Sangster

This book was never intended as a detailed blueprint for constitutional change but it is the ambition of the Scottish Fabians to provide an agenda for action. Our contributors are diverse in their experience and political views but they all agree that there is a need for change in a variety of areas and some have contributed ideas in their chapters about what that change could look like.

It is essential that the Scottish Labour Party addresses these issues – they are fundamental to creating a strong democracy and improving outcomes for people across the country. As we have previously argued, it is the absence of a strong pro-UK, pro devolution, pro Scotland Labour Party that has opened the space for the SNP to dominate our politics over the past decade.

In this short afterword, we bring together the many suggestions our contributors have for strengthening the argument for devolution and focussing on generating positive outcomes in people's lives.

1. Reforming the UK

The strain of the 2014 independence referendum, the 2016 EU referendum and its fallout and the initial response to Covid-19 has, in the words of Gordon Brown, made the UK look like a “dysfunctional state”. However, the truth

is that these pressures have only exposed weaknesses in our system of government that have existed for far longer.

The Labour Party, in Scotland and across the UK, must find a way to articulate the purpose of the United Kingdom. Gordon Brown proposes a “mission statement” for the UK. Our response to nationalism over the past two decades has been to engage in an “auction of powers”. There may well be good reasons to devolve further powers to the regions of England and to the nations, but these discussions must begin with a shared understanding of the purpose of the United Kingdom as a multinational, devolved state.

Nicola McEwen encouraged us to have a focus on “shared rule”, a point explored in more detail by both Gordon Brown and Jim Gallagher who advocate an overhaul of our system of intergovernmental relations and the parallel systems of accountability for them. For several of our authors, a replacement of the House of Lords in the form of a new Senate of the Nations and Regions would create a forum for UK wide representation that could reflect the multinational basis of the United Kingdom. Improved and codified intergovernmental relations are also crucial and, as Nicola McEwen highlights, the Labour Welsh government have already set out a plan for a UK Council of Ministers established in a similar way to the EU Council of Ministers. As the UK moves through the post-Brexit process such constitutional architecture will be essential to mediate disputes on repatriated powers and provide a forum for areas of joint concern.

2. Articulating our shared identity and values

The FEPS/Fabians research has shown how, for many people, the SNP have become the “collective representation” of Scottish identity. This was the position held by the Scottish Labour Party through the 1980s and 1990s. The party – through its advocacy of devolution, its clear

articulation of Scottish values and identity and a focus on improving people's lives – was able to maintain a commanding position through this period.

In this period, Scottish Labour did not avoid questions of national identity, instead they engaged directly with them. That must happen again. The majority of voters in Scotland would identify as more Scottish than British and many would mediate their political choices through the prism of their own identity. As Paul Kennedy and David Cutts highlight from the Catalan experience, the *Partit dels Socialistes de Catalunya* do not compromise on the national and cultural identity of Catalonia – it is part of their party's story. This is true of many sub-national parties across Europe, but has always been a point of tension in Scottish Labour.

As Nicola McEwen has pointed out previously in the immediate years following devolution, there was a tension in Scottish Labour between those who viewed the Scottish Parliament as a platform for Scottish interests and identity and those who viewed it as a way of binding together Scotland and Britain together. Any future action must resolve this tension. Scottish Labour must learn from its own history and from the examples of other sub national parties across Europe. Scottish identity will continue to mediate people's politics for years to come. If we are to succeed we must develop our view of Scottish identity and of an inclusive Britishness that is accommodating of multiple identities.

3. Strengthening the Scottish Parliament

The Scottish Parliament has been a success in creating a renewed sense of Scottish political identity and in moving the focus of Scottish politics away from Westminster and towards Holyrood. It has achieved its purpose in making power local and more accountable. However, twenty years

on, and in light of events around the inquiry into the handling of sexual harassment claims by the government, the institution needs reform to make it fit for the next generation. Margaret Curran suggested returning to one of the original founding documents of the Scottish Parliament and provided an assessment of whether it has realised its ambition.

Key among her recommendations is improving mechanisms to reassert the power sharing between people, parliament and government that was originally envisaged. Her assessment that scrutiny has been undermined by an overbearing executive is one that would be recognised by many. Many of the suggestions she made were also contained in the report of Ken Macintosh's Commission on Parliamentary Reform. Ideas such as directly elected committee chairs, improved scrutiny through question time and additional resources for MSPs to improve research should be revisited.

The question of more powers for the Parliament is one that has dominated Scottish politics for the past decade, but not one that has dominated this book. While there may be a strong argument for further devolution, many of our contributors have emphasised the need for the Parliament to use the powers it has to change people's lives. Nevertheless, there will be areas of policy which need to be re-examined, especially as we reach the first review of Scotland's Fiscal Framework.

4. Empowering local government

Local government has too often been an afterthought in the Labour Party's discussion of devolution and in the wider Scottish political debate. Several of our contributors argued that this needed to change. Both Sarah Boyack and Eva Murray argued for strengthening local government. After 14 years of increasing

control by the Scottish Government, local government often resembles local administration as ring fencing and restrictive council tax freezes have tied the hands of local councillors.

Eva Murray argued that local councillors need more freedom and advocated the introduction of a power of “general competence” to strengthen their role and to reinstate true local democracy. Sarah Boyack highlighted the need to put local councils at the heart of the delivery of a post Covid-19 recovery – enabling them to respond to communities’ needs.

5. Addressing “Wicked Problems”

Finally, Scottish Labour cannot lose sight of why we are having debates about changing the way our country is run. It is because we want to deliver a fairer and more equal society. Devolution and constitutional change must be a means to an end and not an end in itself. Addressing the “wicked problems” that James Mitchell outlined in his chapter requires ruthless focus and determination. It means being willing to use political capital to drive through radical changes and not resort to timid managerialism.

That should be the hallmark of Labour’s constitutional commission and what sets our plans apart from those of the SNP. As well as setting out an ambitious agenda for constitutional and societal change in the future, Scottish Labour also needs to be radical about the change it wants to see now and how it would use the powers available to the Scottish Government to achieve that. The next five years will see the Scottish Government face massive challenges: our economy under pressure like never before, high levels of unemployment, the need to create new and quality jobs as the structure of our

economy changes and the need to overhaul the way our NHS works to make it fit for a world after Covid-19.

Conclusion

Since 2007, Scotland has largely been having a conversation with itself. Even the debate over Brexit has been brought back to our debates about Scottish independence. Growing populism has polarised political debates around the world and the same is true in Scotland. However, the people are not as divided as our politicians. They want co-operation on the difficult issues we face as a nation, they recognise the increased division another referendum would create, and they have significant priorities that come ahead of the constitutional question.

There is a significant space for the Scottish Labour Party to carve out an alternative to the hardline positions of both the Conservatives and the SNP. That has to start by understanding and responding to Scottish identity and providing a meaningful agenda for reform of the UK. Only then will the party be able to win the right to be heard on the most pressing social and economic issues of the day and be in a strong position to challenge the SNP. That is the task for the years ahead.

APPENDIX:

FEPS/FABIAN POLLING RESULTS

YouGov poll on behalf of the Scottish Fabians.

Sample Size: 1073 Adults in Scotland (18+)

Fieldwork: 29th May - 1st June 2020

**Which of the following do you think are the most important issues facing the country at this time?
Please tick up to three.**

Health	57
The economy	49
Britain leaving the EU	32
The environment	22
Education	16
Welfare benefits	12
Immigration & Asylum	11
Campaigning for Scottish independence	11
Campaigning against Scottish independence	9
Housing	9
Pensions	7
Family life & childcare	7
Crime	6
Tax	5
Defence and security	4
Transport	2
None of these	2
Don't know	3

How likely or unlikely do you think it is that you would ever vote for a political party which takes a different view to your own regarding Scottish Independence?

Very likely	5
Somewhat likely	8
TOTAL LIKELY	13
Not likely or unlikely	12
Somewhat unlikely	15
Very unlikely	44
TOTAL UNLIKELY	59
Don't know	15

Which, if any, of the following best describes how you see yourself?

Scottish not British	28
More Scottish than British	26
TOTAL MORE SCOTTISH	54
Equally Scottish and British	28
More British than Scottish	5
British not Scottish	6
TOTAL MORE BRITISH	11
None of the above	7

Please say to what extent, if at all, you consider yourself to have a European identity. I consider myself to be...

Very European	25
Slightly European	24
Not very European	16
Not at all European	28
Don't know	7

For each of the following policy areas, please say whether you think they are currently the responsibility of the Scottish Government and Parliament or the UK government and parliament.

[Respondents were shown a random half of the following options, sample sizes are given below each]

Schools [n=546]

Responsibility of Scottish Government and Parliament	79
Responsibility of UK government and parliament	9
Don't know	12

The NHS [n=550]

Responsibility of Scottish Government and Parliament	63
Responsibility of UK government and parliament	27
Don't know	10

Social services [n=533]	
Responsibility of Scottish Government and Parliament	67
Responsibility of UK government and parliament	19
Don't know	14
Employment law [n=523]	
Responsibility of Scottish Government and Parliament	31
Responsibility of UK government and parliament	49
Don't know	19
Universities [n=510]	
Responsibility of Scottish Government and Parliament	72
Responsibility of UK government and parliament	13
Don't know	14
Social security [n=547]	
Responsibility of Scottish Government and Parliament	32
Responsibility of UK government and parliament	51
Don't know	17
Further education colleges [n=511]	
Responsibility of Scottish Government and Parliament	77
Responsibility of UK government and parliament	9
Don't know	14
Foreign policy [n=581]	
Responsibility of Scottish Government and Parliament	7
Responsibility of UK government and parliament	80
Don't know	13

Immigration [n=572]

Responsibility of Scottish Government and Parliament	14
Responsibility of UK government and parliament	72
Don't know	14

Income tax rates [n=527]

Responsibility of Scottish Government and Parliament	55
Responsibility of UK government and parliament	31
Don't know	15

Relationship with the EU [n=507]

Responsibility of Scottish Government and Parliament	11
Responsibility of UK government and parliament	79
Don't know	11

VAT [n=518]

Responsibility of Scottish Government and Parliament	17
Responsibility of UK government and parliament	69
Don't know	14

Broadcasting, including the BBC [n=541]

Responsibility of Scottish Government and Parliament	12
Responsibility of UK government and parliament	71
Don't know	17

Agriculture [n=541]

Responsibility of Scottish Government and Parliament	46
Responsibility of UK government and parliament	34
Don't know	20

Housing [n=554]

Responsibility of Scottish Government and Parliament	73
Responsibility of UK government and parliament	11
Don't know	16

Prisons [n=509]

Responsibility of Scottish Government and Parliament	49
Responsibility of UK government and parliament	32
Don't know	19

Defence, including the armed forces [n=549]

Responsibility of Scottish Government and Parliament	6
Responsibility of UK government and parliament	83
Don't know	10

Sports and the arts [n=549]

Responsibility of Scottish Government and Parliament	56
Responsibility of UK government and parliament	21
Don't know	22

Police and criminal law [n=526]

Responsibility of Scottish Government and Parliament	66
Responsibility of UK government and parliament	21
Don't know	13

Pensions [n=507]

Responsibility of Scottish Government and Parliament	16
Responsibility of UK government and parliament	66
Don't know	18

Consumer and competition law [n=553]

Responsibility of Scottish Government and Parliament	20
Responsibility of UK government and parliament	55
Don't know	25

Money and finance [n=542]

Responsibility of Scottish Government and Parliament	38
Responsibility of UK government and parliament	46
Don't know	16

Transport [n=561]

Responsibility of Scottish Government and Parliament	61
Responsibility of UK government and parliament	20
Don't know	19

Childcare / early years [n=519]

Responsibility of Scottish Government and Parliament	74
Responsibility of UK government and parliament	10
Don't know	15

How much do you trust each of the following?

Members of Scottish Parliament (MSPs) in general

A great deal	5
A fair amount	38
TOTAL GREAT DEAL / FAIR AMOUNT	43
Not much	28
Not at all	18
TOTAL NOT MUCH / NOT AT ALL	46
Don't know	11

Members of UK parliament (MPs) in general

A great deal	1
A fair amount	17
TOTAL GREAT DEAL / FAIR AMOUNT	18
Not much	40
Not at all	31
TOTAL NOT MUCH / NOT AT ALL	71
Don't know	10

My local member of Scottish Parliament (MSP)

A great deal	9
A fair amount	32
TOTAL GREAT DEAL / FAIR AMOUNT	41
Not much	23
Not at all	17
TOTAL NOT MUCH / NOT AT ALL	40
Don't know	18

My local member of UK Parliament (MP)

A great deal	9
A fair amount	25
TOTAL GREAT DEAL / FAIR AMOUNT	34
Not much	27
Not at all	19
TOTAL NOT MUCH / NOT AT ALL	46
Don't know	20

At the moment, the Scottish and UK Governments share power in Scotland. Which of these views would you say is closest to your view?

The Scottish Parliament should make all decisions for Scotland	43
The UK government should make decisions about defence and foreign affairs; the Scottish Parliament should decide everything else	22
The UK government should make decisions about taxes, benefits and defence and foreign affairs; the Scottish Parliament should decide the rest	16
The UK government should make all decisions for Scotland	9
Don't know	10

Thinking about the decision to hold a referendum on Scottish Independence, please say which one of the following statements comes closest to your view?

The decision to hold a referendum should be made by the Scottish Government	45
The Scottish Government and UK government should both have to agree to make the joint decision to hold a referendum	28
The decision to hold a referendum should be made by the UK government	18
Don't know	9

When, if ever, do you think another referendum on Scottish independence should take place?

There should not be another referendum on Scottish independence	17
Within the next year	16
Within the next 2 years	17
Within the next 5 years	13
Within the next 10 years	9
Within the next 20 years	8
Within the next 50 years	2
After 50 years' time	6
Don't know	10

Please say what level of responsibility you think the Scottish and UK government should have over the following areas:

Immigration

Scottish Government should have complete responsibility	40
Scottish Government should have most responsibility but UK government should have some responsibility	11
UK government should have most responsibility but Scottish Government should have some responsibility	16
UK government should have complete responsibility	23
Don't know	10

Trade negotiations with other countries

Scottish Government should have complete responsibility	38
Scottish Government should have most responsibility but UK government should have some responsibility	12
UK government should have most responsibility but Scottish Government should have some responsibility	19
UK government should have complete responsibility	20
Don't know	11

Defence, including the armed forces

Scottish Government should have complete responsibility	27
Scottish Government should have most responsibility but UK government should have some responsibility	9
UK government should have most responsibility but Scottish Government should have some responsibility	20
UK government should have complete responsibility	30
Don't know	14

The currency

Scottish Government should have complete responsibility	33
Scottish Government should have most responsibility but UK government should have some responsibility	10
UK government should have most responsibility but Scottish Government should have some responsibility	15
UK government should have complete responsibility	31
Don't know	11

Scotland's relationship with the European Union

Scottish Government should have complete responsibility	51
Scottish Government should have most responsibility but UK government should have some responsibility	12
UK government should have most responsibility but Scottish Government should have some responsibility	11
UK government should have complete responsibility	17
Don't know	10

All social security payments (such as Universal Credit and Child Benefit), excluding pensions

Scottish Government should have complete responsibility	42
Scottish Government should have most responsibility but UK government should have some responsibility	14
UK government should have most responsibility but Scottish Government should have some responsibility	15
UK government should have complete responsibility	18
Don't know	11

Pensions

Scottish Government should have complete responsibility	40
Scottish Government should have most responsibility but UK government should have some responsibility	13
UK government should have most responsibility but Scottish Government should have some responsibility	13
UK government should have complete responsibility	21
Don't know	12

Regulation of the BBC

Scottish Government should have complete responsibility	25
Scottish Government should have most responsibility but UK government should have some responsibility	10
UK government should have most responsibility but Scottish Government should have some responsibility	20
UK government should have complete responsibility	27
Don't know	19

Transport

Scottish Government should have complete responsibility	48
Scottish Government should have most responsibility but UK government should have some responsibility	18
UK government should have most responsibility but Scottish Government should have some responsibility	10
UK government should have complete responsibility	11
Don't know	13

Deciding when to hold another independence referendum

Scottish Government should have complete responsibility	41
Scottish Government should have most responsibility but UK government should have some responsibility	15
UK government should have most responsibility but Scottish Government should have some responsibility	14
UK government should have complete responsibility	16
Don't know	13

Employment law

Scottish Government should have complete responsibility	40
Scottish Government should have most responsibility but UK government should have some responsibility	14
UK government should have most responsibility but Scottish Government should have some responsibility	13
UK government should have complete responsibility	18
Don't know	14

The Minimum Wage

Scottish Government should have complete responsibility	45
Scottish Government should have most responsibility but UK government should have some responsibility	13
UK government should have most responsibility but Scottish Government should have some responsibility	13
UK government should have complete responsibility	19
Don't know	11

VAT

Scottish Government should have complete responsibility	36
Scottish Government should have most responsibility but UK government should have some responsibility	12
UK government should have most responsibility but Scottish Government should have some responsibility	13
UK government should have complete responsibility	25
Don't know	14

Consumer and competition law

Scottish Government should have complete responsibility	37
Scottish Government should have most responsibility but UK government should have some responsibility	12
UK government should have most responsibility but Scottish Government should have some responsibility	16
UK government should have complete responsibility	20
Don't know	16

Banking regulation

Scottish Government should have complete responsibility	32
Scottish Government should have most responsibility but UK government should have some responsibility	11
UK government should have most responsibility but Scottish Government should have some responsibility	17
UK government should have complete responsibility	25
Don't know	15

How well or badly do you think the following issues have been handled by the Scottish Government over the past few years?

[Respondents were shown a random half of the following options, sample sizes are given below each]

Schools [n=564]

Very well	9
Quite well	40
TOTAL WELL	49
Quite badly	14
Very badly	18
TOTAL BADLY	32
Don't know	19

The NHS [n=548]

Very well	15
Quite well	36
TOTAL WELL	51
Quite badly	18
Very badly	15
TOTAL BADLY	33
Don't know	15

Roads [n=542]

Very well	6
Quite well	26
TOTAL WELL	32
Quite badly	28
Very badly	23
TOTAL BADLY	51
Don't know	17

Train services [n=512]

Very well	5
Quite well	29
TOTAL WELL	34
Quite badly	29
Very badly	18
TOTAL BADLY	47
Don't know	19

Care homes [n=525]

Very well	4
Quite well	25
TOTAL WELL	29
Quite badly	28
Very badly	21
TOTAL BADLY	49
Don't know	22

Social services [n=526]

Very well	7
Quite well	35
TOTAL WELL	42
Quite badly	18
Very badly	14
TOTAL BADLY	32
Don't know	26

Universities [n=542]	
Very well	15
Quite well	42
TOTAL WELL	57
Quite badly	12
Very badly	9
TOTAL BADLY	21
Don't know	23
Social security [n=555]	
Very well	7
Quite well	32
TOTAL WELL	39
Quite badly	17
Very badly	11
TOTAL BADLY	28
Don't know	33
Further education colleges [n=548]	
Very well	11
Quite well	36
TOTAL WELL	47
Quite badly	13
Very badly	10
TOTAL BADLY	23
Don't know	30

Income tax rates [n=543]

Very well	10
Quite well	33
TOTAL WELL	43
Quite badly	15
Very badly	14
TOTAL BADLY	29
Don't know	28

Broadcasting, including the BBC [n=528]

Very well	3
Quite well	28
TOTAL WELL	31
Quite badly	14
Very badly	15
TOTAL BADLY	29
Don't know	40

Agriculture [n=536]

Very well	9
Quite well	35
TOTAL WELL	44
Quite badly	13
Very badly	8
TOTAL BADLY	21
Don't know	34

Housing [n=520]

Very well	5
Quite well	37
TOTAL WELL	42
Quite badly	23
Very badly	12
TOTAL BADLY	35
Don't know	23

Prisons [n=520]

Very well	4
Quite well	28
TOTAL WELL	32
Quite badly	15
Very badly	13
TOTAL BADLY	28
Don't know	40

Sports and the arts [n=520]

Very well	9
Quite well	37
TOTAL WELL	46
Quite badly	11
Very badly	8
TOTAL BADLY	19
Don't know	35

Police and tackling crime [n=531]

Very well	8
Quite well	36
TOTAL WELL	44
Quite badly	23
Very badly	12
TOTAL BADLY	35
Don't know	21

Reducing health inequalities between the richest and the poorest [n=537]

Very well	5
Quite well	28
TOTAL WELL	33
Quite badly	27
Very badly	18
TOTAL BADLY	45
Don't know	22

Promoting Scotland's place in the world [n=548]

Very well	25
Quite well	38
TOTAL WELL	63
Quite badly	11
Very badly	8
TOTAL BADLY	19
Don't know	19

Promoting Scotland's place in the UK [n=565]

Very well	21
Quite well	33
TOTAL WELL	54
Quite badly	16
Very badly	14
TOTAL BADLY	30
Don't know	15

Please say which of the following statements comes closest to your view:

The UK and Scottish Governments work well together on issues affecting my life	10
The UK and Scottish Governments should be better at cooperating on issues affecting my life	74
Don't know	16

In general, do you think devolution has made it easier or more difficult to get things done in Scotland, or has it made no difference?

A lot easier	14
Slightly easier	29
TOTAL EASIER	43
No difference	19
Slightly more difficult	9
A lot more difficult	9
TOTAL MORE DIFFICULT	18
Don't know	21

Please say which of the following statements comes closest to your view:

I value Scotland's relationship with the EU more than its relationship with the UK	40
I value Scotland's relationship with the UK more than its relationship with the EU	44
Don't know	17

Do you think another independence referendum will make the country more or less divided, or will it make no difference?

More divided	52
It would make no difference	26
Less divided	11
Don't know	11

Please say which of the following statements comes closest to your view:

Scottish independence is one of the most important issues facing the country and it is right that it gets a lot of attention	34
Scottish independence distracts from other important issues that should get more attention	53
Don't know	13

Do you think Scotland would have been able to respond to Coronavirus better or worse...?

If it was an independent nation

Much better	30
Slightly better	15
TOTAL BETTER	45
Neither better or worse	18
Slightly worse	5
Much worse	18
TOTAL WORSE	23
Don't know	14

If there were fewer powers devolved to the Scottish Government

Much better	7
Slightly better	6
TOTAL BETTER	13
Neither better or worse	24
Slightly worse	17
Much worse	29
TOTAL WORSE	46
Don't know	17

If there were more powers devolved to the Scottish Government

Much better	26
Slightly better	23
TOTAL BETTER	49
Neither better or worse	24
Slightly worse	4
Much worse	10
TOTAL WORSE	14
Don't know	13

If the Scottish Parliament hadn't been created and there wasn't any devolution

Much better	9
Slightly better	6
TOTAL BETTER	15
Neither better or worse	21
Slightly worse	10
Much worse	36
TOTAL WORSE	46
Don't know	19

And how risky do you think it would be for...?

Scotland to remain part of the United Kingdom

Very risky	18
Fairly risky	20
TOTAL RISKY	38
Not very risky	20
Not risky at all	31
TOTAL NOT RISKY	51
Don't know	11

Scotland to become independent

Very risky	32
Fairly risky	28
TOTAL RISKY	60
Not very risky	15
Not risky at all	16
TOTAL NOT RISKY	31
Don't know	10

How big a threat, if at all, would you say each of the following are to Scotland's future?

More Conservative governments in Westminster

A major threat	41
A significant threat	16
TOTAL MAJOR / SIGNIFICANT THREAT	57
A minor threat	12
Not a threat at all	14
TOTAL MINOR / NO THREAT	26
Don't know	16

A Labour government in Westminster

A major threat	12
A significant threat	17
TOTAL MAJOR / SIGNIFICANT THREAT	29
A minor threat	27
Not a threat at all	23
TOTAL MINOR / NO THREAT	50
Don't know	21

Falling oil prices

A major threat	20
A significant threat	32
TOTAL MAJOR / SIGNIFICANT THREAT	52
A minor threat	26
Not a threat at all	7
TOTAL MINOR / NO THREAT	33
Don't know	15

Scottish independence

A major threat	26
A significant threat	15
TOTAL MAJOR / SIGNIFICANT THREAT	41
A minor threat	17
Not a threat at all	30
TOTAL MINOR / NO THREAT	47
Don't know	12

Brexit	
A major threat	31
A significant threat	24
TOTAL MAJOR / SIGNIFICANT THREAT	55
A minor threat	15
Not a threat at all	16
TOTAL MINOR / NO THREAT	31
Don't know	13

The economic impacts of the Coronavirus outbreak	
A major threat	32
A significant threat	44
TOTAL MAJOR / SIGNIFICANT THREAT	76
A minor threat	11
Not a threat at all	3
TOTAL MINOR / NO THREAT	14
Don't know	10

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