

On a Spectrum of Options

- A spectrum of constitutional options exists
- There is a multitude of other options that could usefully be included beyond the simple binary currently debated
- This paper offers an overview of the spectrum without advocating any option but seeks to widen and enrich debate
- Independence can take a number of forms and its advocates should be clear as to which is being advocated
- In particular, clarity on the vision of society and economy as well as levels of meaningful public policy (as distinct from legal) autonomy is required
- Greater debate is required on institutions, regulatory regimes and policies that might be shared/held in common with rUK
- Consideration of alternative partial independence options could usefully be part of debate recognising the existence of a spectrum of forms of independence currently and in the past across the globe
- Consideration of confederal arrangements and federacies would inform and enrich debate on the Scottish Question
- Federalism has been mooted as an option but has yet to be developed in a way that could usefully enrich debate
- Key questions on federalism include federalism's purpose and the form it might take
- Mechanical and symmetrical forms of federalism seem less appropriate than organic federalism given the current state of the UK, the relative size of the component parts and how the UK has evolved
- Debate on federalism is only meaningful when there is support for and a serious debate in rUK as Scotland cannot unilaterally decide in favour of federalism
- Without any major overhaul, there remain options for reform of the existing devolved system
- The rushed manner in which the Smith Commission proposals were agreed and lack of public engagement have the potential to undermine this significant change in devolved government
- A review of devolved government may be necessary as the new powers and competences bed down with the possibility of at least technical changes and particularly of intergovernmental relations given the added complexity following Smith

**THE PAMPHLET WILL BE AVAILABLE ON THE JIMMY REID FOUNDATION WEBSITE ON
1/10/20 – SEE BELOW**

About the Jimmy Reid Foundation

Established in 2011 by the *Scottish Left Review*, the Jimmy Reid Foundation (JRF) is an independent 'think tank' and advocacy group focussed on producing practical, policy proposals for transforming Scotland based upon analysis and investigation of the current Scottish and global political, cultural and social situation. Visit our website <http://reidfoundation.org/> to see our policy papers and news and follow us twitter @ReidFoundation.

Scotland has entered yet another critical period in its development after the 2019 general election and the pandemic. Though politics is about much more than just constitutional options, it is becoming increasingly clear that the advancement of progressive politics in Scotland can only happen under a different constitutional settlement. But which one is that and how does the left develop a consensus around the issues at hand that will then lead to manifest progressive social and economic change?



the 'Scottish Question' revisited: *Constitutional options for Scotland*

James Mitchell



**The Jimmy Reid
Foundation**

In this commissioned pamphlet, Professor James Mitchell outlines and assesses the constitutional options for society in Scotland from a left perspective.

Taking neither a pro- or anti-independence (or any other) position, he raises the kind of searching questions that each of us must ask ourselves of our preferred options as well as those of our political adversaries on the matter. Indeed, he makes it clear that rather than a single 'Scottish Question' as per the nomenclature of 'the national question', there are, in fact, many Scottish questions. And, in doing so, he makes clear there is a level of complexity that needs to be comprehended and then responded to.

EXECUTIVE SUMMARY OF THE FULL PAMPHLET

On the Conduct of Debate on the 'Scottish Question'

- Debate on Scotland's constitutional and political future has become stuck in a rut
- There is a need for a more respectful debate
- The primary foci should be on how to improve citizens' wellbeing and who benefits under each option
- Protagonists and antagonists in this debate should explain as clearly as possible the impact of proposed changes on citizens' wellbeing
- Debate on the Scottish Question has always been, and will continue to be, a matter for each generation and cannot be 'resolved' once and for all

On the UK, States and Nations

- States and nations are artificial, have changed and will continue to evolve
- Loyalty to a state or nation is, nonetheless, a powerful force in politics
- The UK was created by a series of unions, each different and leaving distinct institutional and political legacies that remain relevant today
- This has led to an asymmetrical constitution reflecting the UK's diversity
- The UK has, nonetheless, developed into a highly centralised state
- Parliamentary sovereignty has been an important myth - incorporating notions of illimitability, perpetuity and indivisibility – that has (mis)informed understandings of the state and limited options for reform
- Popular sovereignty has been an alternative myth with characteristics common to Parliamentary sovereignty
- The UK gives the appearance of flexibility without an entrenched written constitution but in practice has been as difficult to reform as a state with an entrenched constitution
- The UK exhibits an array of constitutional arrangements overlooked in much debate that could serve to inform discussion
- Whatever constitutional arrangements exist, Scotland will operate in an interdependent and changing world and this needs to be acknowledged explicitly by participants in these debates.

On the Scottish Question

- The Scottish Question is a misnomer implying a single question/focus
- Rather, the Scottish Question is a matrix of interdependent questions and issues covering party politics, policy preferences, national identity and constitutional options.

On Choosing Scotland's Future

- Constitutional politics are the 'rules of the game' of politics
- Agreement on these rules is necessary to ensure that authoritative decisions are binding
- Minorities should accept authoritative decisions (at elections and referendums) but need not stop campaigning for their preferred option
- The UK lacks clarity and consistency in how constitutional change occurs
- Referendums have increasingly been used, though inconsistently and in an ad hoc manner
- Clarity, lack of ambiguity and agreement will be required on the conditions required for any second referendum
- There is a need for a new convention of the UK constitution on how to trigger a referendum comparable to the Addison/Salisbury Doctrine
- Reviewing UK experience of referendums offers ideas that might inform how decisions could be made

On Options for Constitutional Change

- Referendums in the UK have been binary - though there is a case for a multi-option referendum on the Scottish Question
- Evidence on the strengths and weaknesses of multi-option referendums offers insight into opportunities to broaden debate
- More options would empower voters by increasing possibilities, encourage constructive voting allowing people to vote for first preference option rather than least disliked option; signal views across a wider range of options; and potentially identify an underlying, and otherwise hidden consensus
- More options would, however, require the development of clear and well developed ideas, create challenges in explaining and understanding more complex options; agreement on voting methods; and might not lead to a clear majority for the winning option (at least on first preferences)

On Brexit

- Brexit has removed the common European framework within which Scotland, regardless of status, would have operated
- Until a more definitive picture emerges on the nature of Brexit, the implications for each potential option remains uncertain
- Brexit simultaneously highlights divergence of opinion in Scotland from the rest of the UK (rUK) while also creating new challenges for advocates of independence
- There needs to be more debate on the range of options, with their attendant challenges and opportunities
- Advocates of Brexit claimed it would lead to more powers being devolved
- Brexit has highlighted the lack of entrenchment of devolved government
- There are legitimate concerns that Brexit will be an opportunity for a 'power grab' given the form the Brexit process has taken.