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*Les Élections législatives de 2019 en Écosse : le deuxième référendum d'autodétermination comme enjeu*

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# The 2019 General Election in Scotland: the Issue of a Second Independence Referendum

*Les Élections législatives de 2019 en Écosse : le deuxième référendum d'autodétermination comme enjeu*

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## Introduction

- 1 On September 18<sup>th</sup> 2014, 55.3 % of voters in Scotland voted against independence. Under the Edinburgh agreement signed in October 2012 between the British Government and the Scottish Government, the matter was supposedly settled: Scotland would remain in the UK and thus in the EU. However the issue lingered on the political agenda. On the one hand, the SNP came ahead at every election, i.e. elections to the Scottish Parliament and to local authorities, but also elections to the House of Commons where it gained a majority of Scottish seats from 2015. Independence was the ultimate goal of the party. On the other hand, in the June 2016 referendum on continuing membership of the EU, 62 % of the Scots voted in favour of remaining in the EU whereas 52 % of the British opted for a Leave vote. In addition, from that time onwards, successive British Governments dealt with Brexit on their own, without properly consulting the Scottish Government led by the SNP and the Scottish Parliament both in their negotiations with the EU and in the parliamentary process at Westminster. Nicola Sturgeon, Scotland's First Minister, thus repeatedly denounced this contempt that should lead to a second independence referendum.
- 2 This was the background to the 2019 general election in Scotland. Although a second independence referendum was not expected to be the issue, it was frequently mentioned both by the SNP and by the three main British parties, the Conservatives, Labour and the Liberal Democrats who opposed it. It was undoubtedly an underlying issue. During the campaign, it was intertwined with Brexit and bread-and-butter issues.

The results did prove that the SNP was still ahead but they were subjected to diverging interpretations and the path to independence remained unclear.

## A second independence referendum and the 2019 campaign

3 The debates about a second independence referendum in the campaign leading to the 2019 general election were framed by previous events. After the 2016 referendum Nicola Sturgeon hinted that independence might be the only solution to enable Scotland to remain in the EU. She still had in mind the process which had led to the 2014 referendum, i.e. a Section 30 Order based on the Scotland Act 1998 passed by the British Parliament to have a lawful poll. Yet she did not request it immediately. She first published guidelines - focused in particular on remaining in the single market - and then a set of detailed proposals in December.<sup>1</sup> Her Government seemed determined and organised unlike the British Government. In early January, the Supreme Court ruled that the latter should consult Parliament before triggering Article 50 of the TUE i.e. notifying the President of the European Council of the decision to leave the EU. Yet the Court also ruled that the Scottish Parliament would not have to be consulted as the legislative consent motion was merely a political convention.

4 In response, in March 2017, Nicola Sturgeon requested a second independence referendum, arguing:

The majority of us wish that the UK as a whole had chosen to remain in the EU and that the UK Government was pursuing single-market membership. [...] There is no indication that [the Scottish] Parliament's voice has carried any weight at Westminster. [...] The decision about what kind of country we are and what path we take can only be made by the people of Scotland [...].<sup>2</sup>

5 After three days of impassioned debates in the Scottish Parliament, she gained majority support as even though the SNP only had 63 MSPs (out of 129) it could rely on the 6 Green MSPs.

6 Prime Minister Theresa May responded that it was not the time for such a referendum as she had to cope with Brexit. Moreover she decided to hold a snap general election in June 2017 as she expected to increase her parliamentary majority. This was a failure. Yet in Scotland the Conservatives led by Ruth Davidson gained additional seats for the first time since 2001 at the expense of the SNP. Sturgeon realized that although her party still held 35 Scottish seats out of 59 in the House of Commons, it had somehow lost momentum. Consequently she 'reset' her request, and postponed it.

Our proposal is not to have a referendum now. [...] At the end of the period of negotiation with the EU, which is likely to be next autumn [2018], when the terms of Brexit will be clearer, we will come back to Parliament to set out our judgment on the best way forward at the time, including our view on the precise timescale for offering people a choice over the country's future.<sup>3</sup> [...]

7 By the time Theresa May signed a withdrawal agreement with the EU in November 2018, Sturgeon's discontent had increased. Indeed as for the agreement it did not even mention Scotland which proved that the British Government had not paid any attention to the Scottish Government's December 2016 White Paper. Yet it contained a protocol for Northern Ireland - the other part of the UK which had voted in favour of remaining in the EU. Besides, the British Parliament had passed an Act to repatriate

areas dealt with by the EU in order to prevent a legal vacuum after Brexit (EU (Withdrawal) Act). Amongst these areas were devolved matters such as agriculture and fisheries, which meant that Westminster could legislate for them. After months of wrangles, the British Government reduced the number of devolved matters at stake and set a time limit for this legislation which would aim at setting common frameworks before devolving all relevant matters. Yet this was repeatedly described as a 'power grab' by Scottish politicians.

- 8 Unsurprisingly, in April 2019, as Theresa May proved unable to have her withdrawal agreement endorsed by Parliament thus fuelling fears of a no-deal Brexit, Sturgeon once again demanded permission to hold a second independence referendum. Yet she also announced new initiatives. Indeed her Government would introduce a Bill to set a framework for referendums held in Scotland in devolved matters. These provisions would be in force when the Section 30 Order was eventually granted. Furthermore, she would set up citizens' assembly to talk about Scotland's future especially the kind of society the people living in Scotland wanted to live in. The topics would be wide, but they would encompass institutions, knowing that the Scots remained bitterly divided over independence.

[...] If we are to safeguard the interests of Scotland, we cannot wait indefinitely. That is why I consider that a choice between Brexit and a future for Scotland as an independent European nation should be offered later in the lifetime of this Parliament. If Scotland is taken out of the EU, the option of a referendum on independence within that timescale must be offered to us. That would be our route to avoiding the worst of the damage that Brexit will do [...]. We will shortly introduce legislation to set the rules for any referendum that is, now or in the future, within the competence of the Scottish Parliament. [...]

The Scottish Government will establish a citizens' assembly that will bring together a representative cross-section of Scotland, with an independent chair, to be tasked with considering what kind of country are we seeking to build? How can we best overcome the challenges that we face, including those arising from Brexit? What further work should be done to give people the detail they need to make informed choices about the future of the country?<sup>4</sup> [...]

- 9 Theresa May resigned in June. Her successor Boris Johnson seemed less keen on taking Scotland's interests into account. Indeed he had so little support amongst Scottish Conservatives' elected politicians that soon after his election as leader of the Conservative Party, Ruth Davidson resigned officially to spend more time with her family. Then he signed a withdrawal agreement with the EU in October 2019 which still ignored Scotland. He called the December 2019 election to gain an overall majority likely to ratify his deal.
- 10 SNP politicians were still focused on their request for a second independence referendum. The main argument was to let the people of Scotland make their own decision in such a context. As the election aimed at forming a UK Government the SNP argued that they would never support a Conservative one but they might be prepared to consider an alliance with another party such as Labour provided the democratic rights of the Scots were respected. This is what Sturgeon stated in the foreword to her party's manifesto.

[...]The SNP is willing to take part in a progressive alliance to lock the Tories out of office.

In any discussion, we will demand that the democratic right of people in Scotland to decide their own future is respected. As an independent European nation we will always get the governments we vote for.[...]

It's time to put Scotland's future in Scotland's hands.<sup>5</sup>

- 11 As there were calls to stop Brexit - the unilateral revocation of Article 50 having been ruled lawful by the European Court of Justice as part of legal proceedings brought in Scotland by SNP MPs -, Sturgeon made it clear that she wanted an independence referendum even if Britain remained in the EU.
- 12 Lorna Slater and Patrick Harvie, the co-convenors of the Scottish Greens, also put emphasis on the right to self-determination even if they had no outgoing MPs and little prospect of having an impact on the UK Government.
- [...] The general election comes at a time of unprecedented threats to our democracy, our environment and our future. We face a government, a Prime Minister and a Brexit, none of which were backed in Scotland. The Scottish Green Party will stand up against those in Westminster who want to deny the right of people who live in Scotland to decide our own future.<sup>6</sup>[...]
- 13 Conversely unionist parties were determined to prevent the SNP from organising another independence referendum. Not only were they hostile to independence but they also urged the SNP to focus on governing Scotland. This is the main reason why they ruled out Remain alliances similar to those in England.
- 14 Jo Swinson the leader of the Liberal Democrats who was also a Scottish MP compared the chaos generated by the Brexit process to disentangle a mere confederation with the hurdles likely to arouse from Scotland's independence to break a full Union. Things would be more painful and they would take longer :
- [...] Liberal Democrats will stop another independence referendum in Scotland, and stop the divisions, chaos, new borders and economic costs that independence would cause.
- We need to learn the lessons of Brexit, not repeat the mistakes with independence.
- [...] Independence would bring all the chaos and distractions of Brexit, and multiply them.<sup>7</sup> [...]
- 15 This stance upheld the line defended by Willie Rennie the leader of the Scottish Liberal Democrats.
- 16 Jackson Carlaw who had been the deputy to Davidson and who acted as leader of the Scottish Conservatives, castigated possible alliances between Labour and the SNP likely to lead to another independence referendum. The message was enhanced in a manifesto entitled *No to IndyRef2*.
- Nicola Sturgeon has said she wants another referendum next year. Jeremy Corbyn - and countless other Labour politicians - have made clear they will not stand in her way.
- This real and present risk is why all pro-UK Scots should, at this general election in particular, vote Scottish Conservative - to stop Sturgeon and Corbyn taking us back to yet more division.<sup>8</sup> [...]
- 17 Richard Leonard, the Scottish Labour leader, stated his opposition to any second independence referendum. He despised the nationalism of his two main rivals and wanted to assert his party's social priorities as a left-wing party focused on redistribution while the SNP was persistently distracted by constitutional matters.
- [...] I won't be distracted by the competing nationalism of the Tories and the SNP.
- [...]
- Unlike the Tories and the SNP, we want Scotland to stay in the UK, and we want the UK to stay in the European Union. The real division in these islands is between those people who own the wealth and those people who through their hard work and endeavour create the wealth.<sup>9</sup>[...]

- 18 However Scottish Labour and to a lesser extent Scottish Conservatives found it difficult to cope with messages put forward by some leading figures of their respective UK parties. In particular, Jeremy Corbyn who met Sturgeon in October contended that a Labour Government might not oppose a second independence referendum. After a while he added that this could not take place in the first years as Labour would enforce its social and economic pledges. But this was a blow for the Scottish leader who was close to Corbyn. As for the Scottish Conservatives there were some MPs such as Alister Jack, the Scottish Secretary appointed by Johnson, who seemed to waver, mentioning the results of the 2021 election to the Scottish Parliament as a possible mandate for the SNP. Carlaw's line was thus obscured.
- 19 Besides putting emphasis on a second independence referendum was risky as there had not been any shift in public opinion since the first one or since the 2017 general election. Indeed according to Panelbase the proportion of individuals willing to vote for independence was slightly upwards but it did not exceed 50 % (table 1). SNP strategists regarded 60 % as a safe threshold to hold a second referendum. The Brexit process had not had any decisive impact.

**Table 1: Should Scotland be an independent country ? (Panelbase)**

	Sept17	Mar18	June 18	Nov 18	Dec 18	Apr 19	May 19	June 19	Oct 19	Dec 19	Jan20
Yes	43	44	44	45	47	47	48	49	49	47	51
No	57	56	56	55	53	53	52	51	51	53	49

**NOTE : EXCLUDING UNDECIDED VOTERS.**

Source : [www.whatscotlandthinks.org](http://www.whatscotlandthinks.org), retrieved on 23 February 2020.

- 20 Panelbase also asked a question linking potential vote on independence with Brexit - in particular a no-deal Brexit considered as the worst outcome for Scotland by most experts and most politicians. The proportion of Yes voters exceeded that of No voters from April 2019 when a no-deal Brexit seemed likely (table 2). But the gap between the two proportions remained narrow. This would not trigger another referendum either even though the decreasing proportion of undecided respondents tended to prove that a hard Brexit could lead some individuals to make up their mind in favour of leaving the UK.

**Table 2: Attitudes towards independence in case of a no-deal Brexit (Panelbase)**

	October 2018	April 2019	October 2019
In favour	38	45	49
Against	42	42	41
Undecided	20	13	10

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Source : [www.whatscotlandthinks.org](http://www.whatscotlandthinks.org), retrieved on 23 February 2020.

- 21 On polling day the SNP gained ground but this did not necessarily indicate that a growing proportion of Scottish people wanted their country to become independent.

## A victory for the SNP subjected to diverging interpretations

- 22 On December 12<sup>th</sup> 2019 the SNP came ahead but there were disputes about the meaning of this victory.
- 23 The SNP won the election in Scotland with 1.2 million votes. Its share of the vote - 45 % - was its second-largest at this type of election since 2015 (table 3). It secured 48 MPs out of 59. It conquered 14 seats but lost one to the Liberal Democrats. Amongst its new MPs were outspoken former members of the Scottish Parliament (Kenny MacAskill) and the European Parliament (Alyn Smith) or former MPs defeated in 2017.
- 24 As for British parties, the Liberal Democrats also gained votes. They retained 4 seats but they had one major casualty, Jo Swinson, their UK leader who was defeated by the SNP. Conversely the two other British parties lost votes and seats to the SNP, the Scottish Conservatives' representation decreasing from 13 to 6 while Labour's dropped from 7 to 1.

Table 3: Results of the 2019 general election in Scotland

	Share of the vote	MPs
Conservatives	25.1	6
Labour	18.6	1
Liberal Democrats	9.5	4
SNP	45	48

**SOURCE : AUTHOR.**

- 25 In addition, the SNP had established sound strongholds across Scotland at the expense of the two main British parties. Indeed their shares of the vote exceeded 40 % in 50 seats and never fell below 20 % (table 4) - knowing that each constituency had 4.9 candidates on average. Conversely the British parties had shares of the vote below 20 % in most seats (LibDems, Labour) or almost half of them (Conservatives).

Table 4: Distribution of the parties' shares of the votes in Scotland (number of constituencies)

	Below 10 %	10-19.9 %	20-29.9 %	30-39.9 %	40-49.9 %	50-59.9 %



Conservatives	2	24	15	10	7	1
Labour	21	10	18	9	1	0
Liberal Democrats	46	7	1	3	2	0
SNP	0	0	1	8	40	10

Source : author's calculations.

- 26 Scottish voters were quite interested in the election with a turnout of 68.1 %, which had increased by 1.6 % since 2017. Moreover turnout exceeded 50 % in every constituency. However the SNP did not seem to take particular advantage of higher turnout. But it managed to increase its share of the vote by proportions exceeding its Scottish average in seats where such surges were most required, i.e. where its main rivals were the Conservatives (table 5). The latter were also able to win over voters in such seats as they lost lower shares of the votes than their Scottish average. Labour and the LibDems did not succeed in gaining ground in the seats that mattered most for them.

Table 5: Changes in parties' shares of the votes between the 2017 general election and the 2019 general election in Scotland

	All seats	Seats SNP-Con	Seats SNP-Lab	Seats SNP-LD
Conservatives	-3.5	-1.9	-3.3	-4.3
Labour	-8.5	-10	-8.3	-5.8
Liberal Democrats	+2.8	+2.7	+3.1	+1.9
SNP	+8.1	+8.8	+7.6	+6.2

**SOURCE : AUTHOR'S CALCULATIONS.**

- 27 Moreover correlation coefficients were very high for each party with their constituency results at the 2017 election, i.e. over 0.9 for British parties but somewhat lower for the SNP (0.86). They were lower and negative with the votes of other parties in 2017 but they were less significant for the SNP. Besides there was a positive correlation of about 0.4 between unemployment in constituencies and votes for Labour and the SNP which proved that the latter had succeeded in winning over votes in seats experiencing economic hardship.
- 28 As for the impact of constitutional matters, the SNP was supported by three-quarters of those who had voted for independence in 2014 and such a close link resulted from the referendum campaign (table 6). The unionist vote - which was only slightly larger - had to be divided with the Conservatives winning the largest share - almost 50 % - as they had had the most consistent line since 2014 at every election thanks to Ruth Davidson. The impact of the 2016 referendum was less clear-cut. Half of those who had voted Remain opted for the SNP while half of those who had voted Leave opted for the Conservatives - and a quarter voted SNP.

- 29 This raised questions about parties' strategies as the SNP's leadership insisted on leaving the UK to remain in the EU. The SNP was favoured by Remainers who were twice as numerous as Leavers. It had nothing to fear from the Greens which only received 1 % of the vote. Yet there was a substantial minority of pro-independence voters who were reluctant - or even hostile to the EU. As for the Scottish Conservatives they had displayed less Euroscepticism than their English counterparts. But they were more trusted by Leavers than their rivals. There was no real competition with the Brexit party which only gained 0.5 %.

**Table 6: Votes at 2019 general election compared to votes in 2014 referendum and in 2016 referendum**

	Pro-independence 2014	Against independence 2014	Remain 2016	Leave 2016
Conservatives	9	46	16	54
Labour	11	23	20	15
Liberal Democrats	3	15	12	5
SNP	75	14	51	24

Source : average of three polls, John Curtice, 'Brexit or IndyRef2 ? The foundations of the SNP's electoral advance', 19 December 2019 [www.whatscotlandthinks.org](http://www.whatscotlandthinks.org), retrieved on 23 February 2020.

- 30 These issues were taken into account by voters questioned by Ipsos-Mori in November 2019.<sup>10</sup> Indeed those which mattered most in the election were Brexit (56%), independence (34%) as well as the NHS (44%). About a quarter of respondents reckoned that Brexit and independence would have an impact on their electoral behaviour. However Brexit would have an impact on three-quarters of Conservative voters and half of SNP voters while independence would have an impact on half of SNP voters and less than one-third of voters for British parties.
- 31 Politicians had their own interpretations. The Scottish Government had passed the two bills lodged in 2019 to accompany Sturgeon's request for a referendum. The Referendum Bill had just been received final approval by the Scottish Parliament thanks to SNP and Green MSPs.<sup>11</sup> Unionist MSPs had refused to endorse what they regarded as a framework for an independence referendum even though the Scottish Government had granted concession over the role of the Electoral Commission as to the wording of the question (section 2). Yet interestingly two Labour MSPs - Neil Findlay and Monica Lennon - had abstained as they thought that the Scots should be consulted. The Bill creating citizens' assemblies had been passed in September with Labour support.<sup>12</sup> David Martin, the former Labour MEP defeated in May 2019 was one of its co-convenors along with Kate Winpress. The two other Unionist parties' MSPs still considered these assemblies as 'Trojan Horses' for another debate on independence.
- 32 Nicola Sturgeon claimed that the SNP had one again gained a mandate and she referred to the wording of her 2016 manifesto released a few weeks before the referendum :
- The Scottish Parliament should have the right to hold another independence referendum if there is a significant and material change in the circumstances that prevailed in 2014, such as Scotland being taken out of the EU against its will<sup>13</sup>.

- 33 One week after the election, the Scottish Government published a document entitled *Scotland's Right to Choose* which referred to the sovereignty of the Scottish people dating back to the 1314 Declaration of Arbroath and the successive Claims of Rights from 1689 to 1988. Sturgeon demanded permission from the UK Government to organize a referendum on independence, and she even hinted that such a transfer of power could be permanent. She called for a quick move in order to hold the referendum by the end of 2020. Indeed the UK was due to leave the EU in late January 2020 thus opening up a transition period until the end of the year during which the UK would remain part of most EU policies especially the single market. Leaving the UK during this period of time might thus be easier.

[...]There has been significant and material change in circumstances since the 2014 referendum and, therefore, in line with the mandate received in the 2016 Holyrood election, and reinforced in subsequent UK general elections - most recently in December 2019 - the Scottish Government believes people in Scotland have the right to consider their future once again.

The decision on whether a new referendum should be held, and when, is for the Scottish Parliament to make - not a Westminster government which has been rejected by the people of Scotland.

We are today therefore calling on the UK Government to ensure a transfer of power is made - from Westminster to Holyrood - so that a fresh independence referendum is put beyond legal challenge.

It is our position that a referendum should be held before the end of 2020 but the precise timing will be a matter for the Scottish Parliament to decide.<sup>14</sup>[...]

- 34 As the Government led by Johnson, buoyed by its overall majority, tended to ignore this request, SNP MPs put forward their interpretations of the figures. They insisted on the defeat of Scottish Conservatives after a campaign based on staunch opposition to a second referendum. Pete Wishart thus contended:

[...] All the leaflets that went through every door said, 'Vote Conservative to stop indyref2.' That was the main message put out by the Scottish Conservatives at the general election. The result was that they lost more than half their MPs.<sup>15</sup> [...]

- 35 Angus MacNeil contrasted the results secured in Scotland by the SNP which was not allowed to enforce its main pledge and the UK Conservatives which were able to govern the whole country with a lower share of the vote :

That victory is so complete that, on 43%, their utter arrogance is such that they never need to go back and check with the people that they are doing the right thing. In Scotland, on 45 %, we demand a referendum, not to do what we want but to ask the people if they want independence. But that is not for the Brexiteers, oh no ; on 43 %, they will do what they want. The arrogance is massive on that side.<sup>16</sup>

- 36 Conversely the Scottish Conservative MP David Duguid claimed that there had been more votes in Scotland cast for the three unionist parties than for the SNP. “[...] *We lost some seats, but it was ultimately a general election to form a Government in this place, not a general election in Scotland. [...] 55 % of people in Scotland voted for Unionist parties, not for the SNP.*<sup>17</sup>”

- 37 This was unlikely to clarify the way forward.

## Uncertain prospects for independence after the election

- 38 In January 2020, Boris Johnson sent a short response to Sturgeon. He turned down her request for a second independence referendum with the traditional arguments, i.e. the legal and political commitments made in 2014 including the SNP leaders' exhort to vote because that opportunity would not be renewed in a generation. The British Government would defend these pledges. He urged the Scottish Government to focus on Scotland's public services.

[...]You and your predecessor made a personal promise that the 2014 referendum was a 'once in a generation' vote.

The UK Government will continue to uphold the democratic decision of the Scottish people and the promise that you made to them. For that reason, I cannot agree to any request for a transfer of power that would lead to further independence referendums.

Another independence referendum would continue the political stagnation that Scotland has seen for the last decade, with Scottish schools, hospitals and jobs again left behind because of a campaign to separate the UK.

It is time we all worked to bring the whole of the UK together and unleash the potential of that great country.<sup>18</sup>

- 39 But SNP MPs would not abandon the request, as pollsters registered an upward trend in favour of independence in January 2020 (table 1). They seized every opportunity to voice Scotland's discontent with UK policies and to demand another referendum.
- 40 The withdrawal from the EU on January 31<sup>st</sup> 2020 provided such an opportunity, all the more so as the Scottish Parliament had voted down the legislative consent motion on the UK Bill ratifying the withdrawal agreement (EU (Withdrawal Agreement) Bill) - the only dissenting voices coming from the Conservatives. Not only did SNP politicians urge the EU not to forget them but the SNP Government focused on a few key issues for Scotland such as immigration. Indeed they claimed that the British Government's restrictive plans - in particular the salary threshold - would not be suited to Scotland. They published detailed plans for a Scottish visa whereby Scottish authorities would assess applications on their own economic criteria and then British authorities would carry out security checks before granting the right to work in Scotland only. The British Government's refusal fuelled their dissatisfaction while embarrassing Scottish Conservative MPs.
- 41 Patricia Gibson an SNP MP managed to organize another parliamentary debate on Scotland's Claim of Right. Her motion reminded the House of Commons of the sovereign right of the people of Scotland, embedded in an ancient tradition. Indeed some Scots had claimed their rights in 1688 against King James II/VII then in 1842 against Parliament's interference in the affairs of Church of Scotland and in 1988 against Margaret Thatcher's free-market policies which paved the way for the devolution process. In January 2012 when the referendum on Scotland's independence was still a controversial matter between London and Edinburgh, SNP MSPs had held a Holyrood debate against any attempt from the British Government to interfere in the referendum. In July 2018, SNP MPs had reignited their claim against a Brexit imposed on Scotland :

That the Parliament recognises the sovereign right of the people of Scotland to determine the form of government best suited to their needs [...] recognises that

there has been a material change of circumstances since 2014 and that a referendum should be held so that the people of Scotland can decide whether they wish it to become an independent country, and calls on the UK Government to reach an agreement with the Scottish Government on such a referendum taking place on a date and in a manner determined by the Scottish Parliament, which the Scottish Government proposes should take place in 2020.<sup>19</sup>

42 This was a clever move as English MPs could hardly oppose the sovereignty of the people in Scotland which had been recognized by senior judges in the 1950s. They could only castigate the consequences drawn by the SNP about a second independence referendum. Yet SNP politicians reminded them of the report of the Smith Commission in December 2014 which recommended additional powers for the Scottish Parliament - that would be enacted in the Scotland Act 2016. This report stated that nothing would prevent eventual independence and it had been signed by the five parties represented at Holyrood including the Unionists: *“It is agreed that nothing in this report prevents Scotland becoming an independent country in the future should the people of Scotland so choose.”*<sup>20</sup>

43 Jackson Carlaw, the new leader of the Scottish Conservatives from February 2020 remained opposed to a second referendum and his counterparts at Westminster, including Alistair Jack, then shared his views. By contrast, some broke ranks within the Labour movement. Indeed Labour which had dominated Scottish politics for fifty years was now only the third-largest party after the Scottish Conservatives. Some of its voters had opted for independence in 2014 before turning to the SNP. Consequently a few MSPs as well as Grahame Smith, the outgoing general secretary to the Scottish Trades Union Congress (STUC) contended that instead of opposing a second independence referendum Labour should deal with the issue and devise a relevant position.

The democratic wishes of the people of Scotland need to be acknowledged. The Scottish Labour Party should support IndyRef2. But it should also confront the question of what independence actually means in a modern geo-political and economic context.<sup>21</sup> [...]

44 Even though Richard Leonard was not prepared for such a move, he has proposed to set up a special conference to deal with devolution and federalism but his plans were rejected by his own executive committee.

45 Divisions also emerged within the SNP. On the one hand some MPs advocated a plan B in response to Johnson's refusal. Indeed Angus MacNeil and Joanna Cherry - as well as Inverclyde councillor Chris McEleny - advocated a consultative referendum so that there would eventually be a Court ruling on its lawfulness.<sup>22</sup> This strategy had been repeatedly ruled out by Sturgeon who did not intend to end up like Catalonia.

46 On the other hand, some SNP elected politicians had doubts about a second referendum. Kenny MacAskill who used to state his disagreement with his former government held by Sturgeon through columns in the press could voice his criticisms in the House of Commons. He thought that the Scottish Government was unlikely to hold a second referendum by the end of 2020 as it was not even prepared to respond to some key arguments of the unionists' campaign in 2014, such as the currency.<sup>23</sup> In addition it had failed to gather majority support amongst Scottish politicians.

[...] The likelihood of a referendum in the short term is slim. Indeed, more likely nil. That additional time is no bad thing given the failure to have resolved some critical

issues from 2014 or to have restored the campaigning machine. [...] Bringing Scottish elected politicians and parties together is essential.<sup>24</sup>[...]

- 47 Other criticisms came from Eurosceptics. Jim Sillars was one of the most famous as he had been an MP for a long time - first for Labour then for the SNP - and he had convinced the latter that European integration should be regarded as an opportunity for an independent Scotland. But he had then distanced himself from Salmond and Sturgeon. In early 2020 he contended that SNP MPs were powerless even though they still formed the third-largest parliamentary group and had retained their two committee chairs. He also wondered how Sturgeon would justify a second independence referendum if Brexit did not have the adverse impact forecast by most experts in Scotland. “[...] Scotland is stuck. [The 48 MPs] will shout at Johnson but will have no leverage over him.[...] What if Johnson gets a good free trade deal ? [...]”<sup>25</sup>”
- 48 Such criticisms also stemmed from the wider independence movement. Jonathan Shafi who had co-founded the Radical independence campaign before the 2014 referendum thus wondered why Nicola Sturgeon had taken part in demonstrations in London to stop Brexit while she had refrained from joining the All Under One Banner demonstrations held since 2014 in Scotland to demand another independence referendum.<sup>26</sup>
- 49 Finally the rise in public spending announced in the UK budget in March 2020 to respond both to concerns of voters in the North of England which had turned to the Conservatives in December 2019 and to the covid-19 pandemic was highlighted as a break with austerity policies conducted over the previous ten years. As the Scottish Parliament would automatically receive a share of this increase under the Barnett formula, the SNP would lose a powerful argument in favour of independence. In addition the Scottish Conservatives seemed willing to focus on public services to denounce the Scottish Government's record.

## Conclusion

- 50 In the 2019 general election the SNP reinforced its strength even though it had been in power since 2007. Its victory in Scotland did not trigger a momentum likely to incite the British Government to let them hold another independence referendum but the issue was not on the wane either.
- 51 Although Sturgeon stuck to a clear line demanding a lawful referendum by the end of 2020 she might find it increasingly unsustainable as the months went by. Activists would no longer be contented with mere rhetoric. Yet the outcome of the negotiations on the future relationship with the EU should not be underestimated. Scottish politicians had priorities such as remaining aligned with the single market or recovering UK waters for Scottish fishermen. As they did not seem to matter for the UK Government they might be traded off. In addition the British Government might be unable to sign an agreement with the EU within a few months, which would lead to a no-deal Brexit in early 2021. This might be an additional argument to justify a referendum even though independence would generate hurdles such as border issues with England and compliance with EU law.<sup>27</sup>
- 52 An alternative solution would be the progressive way to independence which had been dreaded by politicians opposed to devolution from the 1970s. Indeed they had argued

that the Scottish Parliament would keep advocating further powers. From 2016, the Scottish Government demanded powers over fields where it would like to lead its own policies - distinct from those of the British Government - after Brexit such as immigration, trade deals over devolved matters as well as labour legislation.

- 53 Such controversies were likely to come back to the fore in the 2021 election to the Scottish Parliament as the SNP had unremittingly contended since the early 2000s that such elections would provide them with a mandate for an independence referendum.
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  22. *Herald*, 'MP MacNeil Breaks Ranks to Call for Consultative IndyRef2', p. 1.
  23. A commission appointed by Sturgeon had provided some responses over the currency and over public spending (Sustainable Growth Commission, *Scotland. The New Case for Optimism* (Edinburgh, 2018)) but they were controversial for many SNP members.
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## ABSTRACTS

Constitutional matters were once again on the campaign agenda in Scotland in the general election held on December 12<sup>th</sup> 2019. The SNP won the election at the expense of British parties. They sought a mandate for a second independence referendum to enable the people living in Scotland to choose to remain in the UK or in the EU. However this claim was challenged, which raised questions over the way forward.

Les questions constitutionnelles étaient une nouvelle fois au cœur de la campagne écossaise précédant les élections à la Chambre des Communes du 12 décembre 2019. Le SNP, qui a emporté le scrutin aux dépens des partis britanniques, était en quête d'un mandat pour exiger un deuxième référendum d'autodétermination permettant aux personnes résidant en Écosse de choisir entre le Royaume-Uni et l'UE. Mais cette requête était sujette à controverses, ce qui soulevait des questions quant à la stratégie à adopter.

## INDEX

**Keywords:** election, Scotland, Brexit, independence, referendum, Sturgeon.

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