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Scotland's independence election

This May's election will mark a decisive moment in the Scottish independence debate. But the path to another referendum is paved with uncertainty

Scottish politics is currently defined by the question of whether Scotland should remain part of the UK or become an independent state. While this question has arguably persisted in some form since the union with England began in the 18th century, it has assumed significant prominence in recent years. In fact, the forthcoming Scottish parliamentary election on 6 May will mark a decade of intense debate on independence. It will also reset the stage for ongoing arguments on whether to hold a new independence referendum.

Back in 2011, the Scottish National Party (SNP) won a majority in that year's Scottish Parliament election – the first and, to date, only time a single-party majority has been attained. The SNP, Scotland's largest pro-independence party, had pledged to hold a referendum on independence. Subsequently, the Scottish and UK Governments concluded a bilateral agreement in 2012 to facilitate such a vote. The independence referendum was held in 2014 and, as history recorded, the people of Scotland chose to stay in the UK.

Yet, the debate did not end. The independence conversation was bound to continue in some form, whatever the circumstances. However, the UK's 2016 EU referendum fundamentally altered Scottish politics. As all of Europe must know by now, given that it has been the Scottish Government's singular European message in the intervening years, Scotland did not vote for Brexit. The issues of Europe and independence became indelibly fused. Since 2020, public support for Scottish independence has increased, with intermittent majority support among decided voters. Brexit has been the principal driver.

A decade after 2011, Scottish voters now face another election in which the question of independence is the central issue. The SNP and Scottish Greens propose to hold a new independence referendum in the next parliamentary term, running from 2021 to 2026. The Scottish Conservatives, Scottish Labour and Scottish Liberal Democrats all

oppose such a referendum. Opinion polls have indicated for months that the SNP will decisively win the election. The crucial questions, then, are the SNP's margin of victory and the election's implications for the ongoing dispute over a new referendum.

Pre-election referendum arguments

The Scottish Government, formed exclusively by the SNP since 2007, raised the possibility of a new independence referendum after the UK's vote to leave the EU. In her first speech following the EU referendum, First Minister Nicola Sturgeon stated that a Scotland referendum was 'on the table'. Her argument has evolved into a pledge to hold one by the end of 2023. At present, however, this prospect is disputed at two distinct levels.

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The first level is with the UK Government. Nicola Sturgeon twice attempted, without success, to secure agreement on a new referendum with the serving UK prime minister – in March 2017 with Theresa May and in December 2019 with Boris Johnson. In both cases, no negotiations took place between the two governments. In late 2019, Sturgeon wrote a letter of request to Johnson seeking dialogue on the matter and received a letter of rejection of that offer in early 2020. In practical terms, this level remains in stalemate.

The second level is within the Scottish Parliament. In the outgoing parliament, the SNP and Scottish Greens formed a 'pro-independence majority'. While the two parties were not in coalition, they both support independence and holding a referendum. However, the legislation for the 2014 independence referendum was passed unanimously by the Parliament – not on a majority or party basis. Now, with the absence of support from the Scottish Conservatives, Scottish Labour and Scottish Liberal Democrats, that kind of cross-party endorsement does not currently exist.

More recently, former first minister and SNP leader Alex Salmond has added a novel dimension to the electoral picture. He assumed the leadership of the newly-established Alba Party (Alba means 'Scotland' in Gaelic), after a long-running saga related to his conduct while in office and the full breakdown of the friendship between Sturgeon and Salmond. Significantly, his party proposes to proceed to immediate independence negotiations with the UK Government – possibly holding

a referendum at some point, but not as the initial step. Such an approach has no chance of success but, by advocating it, the Alba Party appeals to those frustrated by a perceived lack of progress on independence. Even if Salmond's party wins no seats at this election, a fragmentation of the pro-independence side is undoubtedly under way. Its evolution and impact remain to be seen.

Election and referendum scenarios

Given the SNP's commanding position in Scottish politics at this point, its performance in May's election will largely shape the outlook for a future independence referendum. The SNP's stated objective is to secure a parliamentary majority on its own. Polls consistently suggest that the party will finish first, but they are inconclusive on whether it will secure a majority. This uncertainty exists in large part because the Scottish Parliament is elected through mixed-member proportional representation. While the SNP is predicted to win most of the first past the post constituencies, the seat allocations for the regional lists – which could provide or deny the SNP a majority – have proven challenging to predict.

In view of the current landscape, four scenarios seem possible: first, the SNP wins a parliamentary majority and governs alone; second, the SNP wins a plurality and governs alone, with ad hoc support from the Greens on independence and other matters; third, the SNP wins a plurality and goes into coalition with the Greens, forming a majority; and, fourth, the SNP wins a majority but still goes into coalition with the Greens, forming an enhanced majority. Although they have differing views in a number of areas, the SNP and Greens have a history working together informally, such as on the budget. The SNP would almost certainly not work with the Alba Party, if the latter managed to secure enough electoral support to enter the Parliament.

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The post-election composition of the Scottish Parliament and formation of the Scottish Government might hold the answer to whether or not the two levels of dispute on holding a referendum are resolved. The UK Government would decide whether it engages with the Scottish Government to negotiate a bilateral agreement on a referendum. The other parties in the Scottish Parliament would choose whether they support such an exercise. The essential question would be to what extent they change their positions based on the election

results, as opposed to keeping with their own preferences regardless.

Scottish democracy and the UK constitution

This uncertainty on the corresponding implications of the Scottish election result for an independence referendum stems from the fact that the United Kingdom has a confused constitutional order. In law, the UK Parliament is ostensibly supreme in Scotland, according to the English doctrine of parliamentary sovereignty. In practice, the Scottish Parliament has political legitimacy to represent the people of Scotland, reflecting the Scottish tradition of popular sovereignty. Dissonance is not easily resolved, in large measure because of these different constitutional ideologies.

This reality is best exemplified by the fact that, although the 2014 independence referendum happened, no consensus exists to this day on why it took place. Under one logic, the UK Government granted a referendum, in view of the 2011 Scottish election but at its sole discretion as interpreter of the Scottish people's wishes. Under the other logic, the Scottish and UK Governments implemented the people's electoral decision to have a referendum, by definition repeatable at their instruction.

This May's Scottish election will demonstrate the electorate's view on holding a new independence referendum. Ultimately, however, the political response will depend upon competing interpretations of democracy and sovereignty in Scotland and the UK.



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