LETTERS on LIBERTY

THE SCOTTISH QUESTION

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Welcome to *Letters on Liberty* from the Academy of Ideas. *Letters On Liberty* is a modest attempt to reinvigorate the public sphere and argue for a freer society.

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What are Letters on Liberty?

It's not always easy to defend freedom. Public life may have been locked down recently, but it has been in bad health for some time.

Open debate has been suffocated by today's censorious climate and there is little cultural support for freedom as a foundational value. What we need is rowdy, good-natured disagreement and people prepared to experiment with what freedom might mean today.

We stand on the shoulders of giants, but we shouldn't be complacent. We can't simply rely on the thinkers of the past to work out what liberty means today, and how to argue for it.

Drawing on the tradition of radical pamphlets from the seventeenth century onwards - designed to be argued over in the pub as much as parliament - *Letters on Liberty* promises to make you think twice. Each *Letter* stakes a claim for how to forge a freer society in the here and now.

We hope that, armed with these *Letters*, you take on the challenge of fighting for liberty.

Academy of Ideas team

THE SCOTTISH QUESTION

In the nineteenth century, there was a tendency to describe diverse, interrelated problems as 'questions'[i] - 'The German Question', 'The Eastern Question' and 'The Irish Question', to name but a few. Issues of authority and order, ethnicity and religion, democracy and liberty reflected the exhaustion of the established order and were often bound up with clashes over sovereignty and nationhood. Later, the emergence of 'The National Question'[ii] reflected a belief that adopting a position on self-determination was not a matter of simply applying a formula but required the assessment of the specific context and trends of any given moment.

As such, 'The Scottish Question' has taken its place in the lexicon. Once again, issues of nationhood are to the fore and constitutional wrangles between neighbours are intertwined with disputes involving a decaying European empire. Discord around religion may have faded, but contemporary conflicts around identity are no less rancorous. Yes, we are still saddled with a monarchy. But today, a new political aristocracy reigns supreme, supported by a new clerisy from the worlds of academia, culture, charity and the media.[iii]

Age-old questions have re-emerged related to liberty, democracy and sovereignty, but with a modern twist. Political divisions have often moved beyond left and right, and changing attitudes to nationalism and nation states complicate the matter. In the spirit of posing questions, here are five that, taken together, can help us understand what is currently going on in Scotland.

The democracy question

'The committee should not entertain any attack on the integrity of the Crown or the hardworking people who work for it.'
                    - James Wolffe QC, Lord Advocate, 2021[iv]

During the Salmond inquiry, James Wolffe, who runs the Crown Office and is a serving member of the Scottish government, reminded Scotland's elected parliamentarians that they were dealing with someone operating above them. The Scottish parliament is effectively accountable to the Crown Office, not vice versa.

The problems of the Scottish parliament are often explained away as poor individual leadership, or a demagogic Scottish National Party (SNP) capturing a system designed to avoid one-party dominance. But do these explanations really account for the inclination

to secrecy, a shadowy third sector, an overbearing power of unelected officials and unaccountable institutions? More accurately, the Scottish parliament can be seen as the product of a depoliticised age. A void has been created by the exhaustion of mass-membership parties and other civic organisations, and the politics of technocrats and experts has stepped in to fill it. Institutions of government might have been moved 400 miles north to sit geographically closer to the people, but that doesn't mean they are not still politically disconnected from the demos.

Many would argue that discussion over Scotland's future has been a passionate and enlivening affair, and that the independence cause elicits popular support - having led to a huge growth in SNP membership. This, in some ways, is true, but it overlooks the fact that devolution (and now independence) are driven by managerial-style parties operating within a technocratic parliament. Both are borne out of the rise of the politics of the professional classes, of public sector and associated institutions, a flourishing cultural class and a booming charity sector. Turned off by a Westminster set-up deemed too sleazy, male, and dominated by adversarial party politics, Holyrood was designed as an 'enlightened' alternative, with election systems, diversity quotas and legislative processes that could be expert led. Decisions would be taken by consensus - in other words, a deliberate move away

from the messy world of clashes of interests and political views in debating chambers.

In short, the Scottish political system reflected an instinct to insulate political decision-making from the people - an aim that has always been harboured by elites. The replacement of mass democratic politics with committee rooms of experts reveals the shift in understanding of what politics really means. The political class now sees its job as simply managing society - hence the endless interfering diktats, and worrying demands that journalists, publications and even elected politicians refrain from publishing information.

No doubt a committee on how to bring government closer to the people is forthcoming, which might recommend new procedures, carefully chosen citizens assemblies - or perhaps additional committees. But the problem that really needs addressing is how to revive politics beyond procedural and formulaic processes, by reinserting the demos back into democracy.

The identity question

'We look to Scotland for all our ideas of civilisation.'
- Voltaire, 1764[v]

While Voltaire's quote is likely a paraphrase, for a long time the Scottish Enlightenment remained the dominant way Scotland viewed its unique contribution to the world. Rather than assert a distinctive culture, the purpose was to discover universal values, discoveries and principles that would be true to all human beings and a common humanity.

Today, Scotland still thinks of itself as a liberal society. It was no surprise that the inaugural Scottish Executive immediately opted to scrap Section 2A of the local government legislation which outlawed promotion of homosexuality in schools (a Scottish version of Clause 28). The minister for communities at the time, Wendy Alexander, said it was about 'building a tolerant Scotland'.[vi] But a furious reaction ensued, including from the then still influential Scottish Church. In a privately organised referendum, more than a million people voted against repeal. Section 2A was still scrapped, ensuring lesbian and gay equality, but in this new tolerant Scotland, the implication was that a fifth of the population were

intolerant on the basis of their differing cultural or religious convictions.

Fast forward 20 years, the SNP MP Mhairi Black accompanied Nathan Mullen, otherwise known as the drag queen FlowJob, on a visit to Glencoats Primary School in Paisley as part of LGBT History Month. According to Black, such visits help overcome 'difficult childhoods' by challenging homophobia and transphobia. Rather than a focus on legal equality, today, in the guise of education, the focus has shifted to behavioural instruction.

Scotland's new Hate Crime and Public Order Act extends protection against causing offence to 'vulnerable' identity groups based on race, colour, transgender and so on. Justice Secretary Humza Yousaf says this sends 'a clear message to victims, perpetrators, communities and to wider society that offences motivated by prejudice will be treated seriously and will not be tolerated'.[vii] But what counts as prejudice? Responding to anger over the visit from some parents of kids at Glencoats, Black said 'your homophobia is transparent'. In the name of tolerance, identities have hate-crime laws to protect them from criticism, while parents concerned about the use of education to push politicised views of identity are labelled intolerant and barred from speaking out.

Instead of a belief in a universal approach to a free society, we are now moving towards a situation in which certain individuals or groups are granted privileges in certain permitted circumstances. (Emergency Coronavirus restrictions, for example, confine us to our homes, except for certain specified exceptions.) In Scotland, under permanent legislation, freedom of speech has become similarly constrained. Criticism of the impact of the Hate Crime Bill was largely limited to seeking 'specific protections' such as 'protecting "criticism" of same-sex marriage'.[viii] It has become common to seek 'free expression' clauses - in other words, to secure the right to free speech for one's own favoured identity group, but at the same time accepting the erasure of free speech for all.

It is notable that those currently being cancelled in today's culture wars are precisely the same thinkers who were central to Scotland's sense of itself. The names of Adam Smith, David Hume and Robert Burns have been removed from monuments and buildings or their reputations besmirched. It's not just these particular individuals that are cancelled, but their intellectual legacy of universal ideals of tolerance and freedom (which were central to the emergence of the modern nation) are also under threat. Modern Scottish politics seems keen on celebrating difference, but have we lost a sense that universal values, a common humanity and social solidarity are worth fighting for?

The national question

'Scotland is unique among European nations in its failure to develop a nationalist sentiment strong enough to be a vital factor in its affairs.'

- Christopher Grieve, NPS, 1927

For the poet, critic and force behind the Scottish Literary Renaissance, Christopher Grieve (also known as Hugh MacDiarmid), a flourishing national identity was the perquisite to political self-determination. A century later, it's remarkable how fearful many advocates of independence are of anything perceived to be remotely nationalist. The First Minister Nicola Sturgeon has said that 'nationhood or Scottish identity is not the motive force for independence' but that 'principles of democracy and social justice' are instead the favoured emphasis.[ix]

In recent years, the SNP has all but abandoned many of the ideals most associated with nationhood. In 2004, the party constitution was altered to remove 'self-government', instead stating objectives such as 'independence' and 'furtherance of all Scottish interests'. In the 2014 'Indyref1' campaign, it aimed to retain the British monarch as head of state, remain tied to NATO for defence and keep sterling as Scotland's currency - each of which suggests a

reluctance to accept responsibility for an independent nation's affairs. The 1990s aim of 'Independence in Europe' and ambition to rejoin the European Union suggests the safe spaces of Brussels committee rooms are another means for the SNP to shelter from forms of decision-making that would involve dealing with the Scottish electorate.

Both the mainstream pro- and anti-independence camps fail to take the people's aspirations seriously, and will do little to alter the estrangement of the public from political and democratic life.

Indeed, not only has independence ditched the ambition of sovereignty, but increasingly it is defined in *opposition* to nationalism, and, more specifically, to Brexit. As Sturgeon herself put it: 'The open, inclusive, civic, internationalist Scottish independence movement that I'm so proud to be part of could not be further removed from this insular, inward-looking, blue passport-obsessed nonsense.'[x] This is independence as anti-nationalist moral superiority, rather than assertive national sovereignty. And by dismissing democratic decision-making as insular nationalist prejudice, Sturgeon and others write off the concept of popular democracy - the central ideal of any new nation-state.

Somewhat confusingly, in addition to the 'anti-nationalists' of the pro-independence variety, some Scottish-independence sceptics are also resorting to an 'anti-nationalist' message. For them, being anti-nationalist is a means to delegitimise independence for its alleged Anglophobia. The move to swap a pro-Union standpoint for an 'anti-nationalist' stance has been formalised by The Majority, a new media outlet aiming to 'unite the silent majority who want to fight back against the nationalists'.[xi] Perhaps this shift is not surprising, given that there is so little substance to contemporary Unionism. After years of failing to articulate what it stood for, Unionism is on the back foot. The likes of the disastrous 'Union Unit' in Westminster and disparate strategies to revive the Union by tinkering with the constitution, setting up new UK-wide economic and security strategies, or even, bizarrely, unified offshore energy capacity, betray a post-Brexit Britain incapable of figuring out what to do with its new-found sovereignty.

What is striking about both the mainstream pro- and anti-independence camps is that each fail to take the people's aspirations seriously, and will do little to alter the estrangement of the public from political and democratic life.

The populism question

'There's a risk of populism in the independence case that has to be managed and defeated.'
- Andrew Wilson, former SNP MSP, 2020[xii]

It is frequently argued that Scotland and England have distinctive and often incompatible political cultures. This assertion was never entirely convincing, but today it seems at odds with new political divides shared by both countries around technocratic governance and popular democracy. The emergence of these new divides has been slower in Scotland, primarily because declining loyalty to the Union ensured a technocratic party such as the SNP could gain popular support on the back of disdain for Westminster. In 2014, as many as two thirds of voters in some working-class areas and the ex-industrial heartlands voted 'Yes'.

Support for Scottish independence has started to take on a different feel. As the SNP redefines itself primarily as an anti-Brexit party, new 'Yes' voters are more akin to middle-class, younger, university-educated 'Remainers'.[xiii] For those who experienced Brexit as destabilising, independence - becoming wrapped up in layers of Scottish, and ideally EU, bureaucracy - has started to seem a more comfortable

proposition than remaining in a 300-year-old Union that is engaging anew with the unpredictability of mass democratic politics.

Likewise, the SNP's ability to retain its populist base may be under pressure. Some traditional nationalists are alienated by the SNP's insistence on rejoining the EU. Others are unnerved by declining public services such as education and health and are frustrated at the lack of democratic accountability. There's disquiet at the way in which the new identity politics and the SNP leadership's evident disdain for a more socially conservative outlook tears up traditional family and community values, rolling back precious freedoms in the process.

The new pro-independence Alba Party headed up by Alex Salmond presents itself as a response to such popular concerns. Yet it was Salmond and those now switching to Alba who were previously the architects of SNP attacks on individual freedoms, and who created today's overbearing centralism at the expense of local democracy. Indeed, at a time when most of the electorate remain to be *politically* convinced of the need for IndyRef2, Alba's focus is on avoiding hard political arguments in constituencies. The party has decided to only contest list seats, effectively gaming - or as one Alba candidate put it, 'manipulating' - the electoral system to secure a 'supermajority'. This is less

the project of genuine political engagement that Scotland needs, and more a cynical technical manoeuvring that short-circuits the possibility of democratic encounters.

Criticism of Alba as a bekilted Faragism, harnessing anti-EU, anti-woke sentiment, hints at the barely concealed anxieties of the Scottish political class and the uncertainties created by those slipping beyond the cosy political mainstream. People are starting to find a voice - or rather, multiple voices. From within the independence camp, critics savage the SNP's undermining of democracy and popular sovereignty, while some have withdrawn their support for a party seemingly enthralled with trans activism and a growing hostility towards free speech. New parties such as Restore Scotland champion self-government, while a plethora of campaign groups, including the anti-SNP All for Unity alliance, came together to oppose the Hate Crime Bill. In such dissent might emerge new political possibilities.

The liberty question

'The move to independence… must be accompanied by institutions whose leadership is strong and robust and capable of protecting each and every citizen from arbitrary authority.'
- Alex Salmond, former First
Minister of Scotland, 2021[xiv]

In his recent testimony to the committee on the government's handling of sexual-harassment claims, Salmond pointed to the threat posed by the exercise of arbitrary authority. Sadly, back in 2011, as leader of the then new SNP government, Salmond seemed less concerned with questions of accountability. Operating for the first time with majority control, the new SNP brought in legislation dedicated to policing football fans, ensuring that supporters could be imprisoned for singing songs or for offensive behaviour. It would be 'glib', said one MSP, to rule out prosecutions for singing 'Rule Britannia' or 'The Billy Boys', either in or near grounds or in pubs, while fans who blessed themselves in an 'aggressive' manner could face jail time.[xv] At the time, human-rights campaigners and the church complained that attempts to rush through legislation with so little consultation were undemocratic.

Although subsequently repealed, these laws symbolised a new illiberalism in Scotland. Far from building a land of the free, 20 years of devolved power had encouraged the dismantling of core principles of liberty - including overturning the principle of political equality. Instead, by criminalising or protecting actions of certain groups, the new Scottish political class has created a principle of treating people differently. In 2021, under new hate-crime law, protected groups include those identifiable by race, colour, disability, transgender status and even whether or not a person cross-dresses.

> *Why has a parliament that advertises itself as bringing power closer to the people ended up waging war on them?*

Under this new legislation, an individual's liberty is under threat should a 'reasonable person' deem their words or behaviour 'threatening' or even simply 'offensive'. This is the very definition of imposing arbitrary authority. Far from a modern future, this new Scotland has become pre-modern - eroding the distinction between words and violence. Likewise, one of the great gains of modernity, the distinction between public and private, is also under threat. Peeved that civil-liberties campaigners helped overturn the notorious Named Person Scheme (that insisted on

state-appointed guardians to oversee every child from birth) the SNP's new hate-crime law has found other ways to ensure the family home is fair game for policing by removing the 'dwelling defence'. Police Scotland are seeking powers to link into Alexa devices, allowing them access to real-time updates of life in the home.[xvi] The one space where we can truly be ourselves is now opened up to state surveillance.

After years of lifestyle policing initiatives pursued through prohibitions, advert bans and 'sin taxes' on fags, booze and junk food creating a cradle-to-grave system of state meddling in people's lives, a significant number of people are now finding their voice to oppose new attacks on liberty. The question is, why has a parliament that advertises itself as bringing power closer to the people ended up waging war on them?

A gap is opening up for those who refuse to accept the invective of Scotland's new clerisy. No doubt these individuals and groups would disagree on all manner of issues. Nevertheless, in refusing to be cowed into narrow, party or state-approved orthodoxies, they raise common concerns as to what Scottish democracy might mean beyond disillusion with traditional politics and Westminster rule.

In *How the Scots Invented the Modern World*, Arthur Herman says that 'being Scottish is more than just a matter of nationality or place of origin or clan or even culture. It is also a state of mind'. *xvii* The great insight of the Scottish Enlightenment, he argues, is the possibility of creating an 'intellectual liberation' to live 'a free and active life'.

After over 20 years of devolution in which freedom, tolerance and democracy have been attacked and maligned, we need an intellectual liberation - a driver for a new 21st century politics, one which can transform our way of viewing the world and help clarify and create Scotland's place within it.

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