PARTING WAYS

How Scotland and the remaining UK could negotiate the separation of debts and assets

Dr Craig Dalzell's paper on how Scotland and the remaining UK could negotiate the separation of debts and assets is the third paper in the Scottish Independence Convention's Transition series. Here we summarise the main issues explored in the paper, which is based on an updated version of Craig's Claiming Scotland's Assets, published by Common Weal in 2016.

In his paper "Parting Ways" Craig looks at why Scotland should be fully aware of its own rights and responsibilities with regards to negotiations on assets and debts and take the time now to plan and prepare well before a decision to become independent takes place. Without this preparation Scotland could be forced into a disadvantageous deal due to a lack of understanding of what the country already has and what a future independent state would need and want.

Looking at how independent states are formed Craig takes the view that "Separation" from the UK is a more likely path with Scotland being considered a "new state" and the remainder of the UK (rUK) being considered the "continuing" or "successor" state to the former UK.

Once Scotland and the rUK determine how they will be parting politically (either by separation or by dissolution) negotiations, he argues, should commence around how different types of assets and debts will be split and according to what criteria. Craig puts forward the proposition that if the Scottish Government is serious about holding and winning a second independence referendum it should immediately commission a Register of Scottish Assets as the lack of a full Register is a severe shortcoming. It is currently almost impossible to determine what an independent Scotland would need but currently lacks, for example which fixed government assets are actually owned by the public and are thus easily transferable compared to government-used buildings leased from private companies which may be subject to complex transfer negotiations.

In addition, an agreement should be signed by both the Scottish and UK governments that ensures that neither side will act during or after the independence campaign to compromise Scotland's infrastructure by transferring or selling off critical assets. They should also agree that splits should be based on the state of assets at a defined date so as to prevent one or both parties moving geographically dividable mobile assets (such as military equipment) out of Scotland before negotiations are concluded.

The paper describes the categories of state assets that need to be considered:

- **Fixed or immovable assets**, including government buildings, military bases within the separating territory (assuming a separation rather than a dissolution), buildings belonging to nationally owned or public companies, mineral assets such as metals, land or oil as well as any technically movable assets that are fundamentally linked to and essential to the running of a fixed asset (such as vehicles and plants required to run a nationally-owned factory).
- **Moveable assets**, which can usually be moved from one territory to another and generally include items like military equipment, foreign currency or gold reserves or similar.
- **Intangible Assets**, which can include citizens' data and the IT systems that are used to manipulate this data, access to or copies of National Archives, licenses for commercial software and Intellectual Property Rights held by the state.
- **Art and cultural objects** can range from archaeological and ethnographic artefacts, public art, art held by public buildings as well as cultural and historical artefacts important to the history and cultural identity of one or more of the states being formed after the separation.

Once the types and value of assets have been established a method for "sharing" them (including debts) will need to be negotiated. The precise calculation of the "share" can be quite simple, such as a population or GDP share.

Previous attempts to lay out a negotiating strategy for the "sharing" of assets and debts – such as Scotland's Future White Paper (2014) and the Sustainable Growth Commission Report (2018) – have not fully considered historical precedents and thus a new strategy for future independence negotiations needs to be considered.

The initial finances of a newly independent Scotland will be highly dependent on the separation agreement reached. Indeed, it is to the mutual benefit of Scotland and the rUK that independence is negotiated amicably to ensure a peaceful separation and one where the rUK is accepted as the continuing or successor state to the former UK. In a separation, the continuing/successor state almost always takes on full ownership of the old state's debt – a fact acknowledged by the UK during the 2014 independence campaign.

One important subset of state liabilities that will be affected by a state separation is pensions. The paper outlines the issues involved for each of the three main groups – private pensions, public sector work pensions, and state pensions – and provides insight into how pensions could and should continue to be paid. Debt and asset separation, even if liabilities are transferred, may initially impact pension and social security payments to residents in Scotland and so must be handled with care to ensure continuity of service. Even a single missed or delayed payment would result in severe financial hardship for many.

The paper discusses plausible negotiating strategies that represent clear advantages for an independent Scotland over the current devolved constitution.

"Subtractive Share of Assets" strategy: This closely mirrors the strategy laid out in Scotland's Future White Paper (2014), which states that Scotland would accept a population share of liabilities from the UK if it was also granted a population share of assets. The UK Government countered by claiming that Scotland should take the population share of debts but would not be entitled to any assets at all.

"Additive Share of Assets" strategy: This would entail Scotland seeking to negotiate the transfer of critical assets and effectively "mortgaging" their value against an equivalent sum of UK debt.

"Annual Solidarity Payment" strategy: This strategy was outlined by the 2018 Sustainable Growth Commission. It proposes that a "proportional share" of assets shall be transferred to Scotland and, in return, Scotland shall pay an Annual Solidarity Payment to the UK amounting to £5.3 billion per year, with the debt interest payment continuing for an "indefinite" time period.

In a **"Zero Option Separation" strategy** Scotland would cede all rights to transferable UK assets and liabilities to the rUK and instead build or buy the assets it requires through other channels.

The least advantageous (the Annual Solidarity Payment) presents a scenario where Scotland would save around £1.5 billion per year in debt interest payments compared to that currently assigned to Scotland in GERS. The most generous scenarios for Scotland – the Additive and Zero-Option scenarios – are also the most considerate of the needs of the rUK. These would permit the rUK to only transfer assets mutually agreed by both states (rather than an arbitrary amount based on a crude population share). Perhaps more critically, they would ensure that Scotland will accept and endorse the rUK's claim to state continuity and thus mitigate Scottish independence becoming more disruptive to the rUK's economy, national pride and geopolitical standing than is absolutely necessary.

The Zero Option Separation would give Scotland the potential advantage of having more control over being able to unilaterally change the management of the debt at a future date – particularly if it was denominated in Scottish currency. It would also give Scotland control and flexibility in the types of assets it procures and to tailor them specifically to Scotland's needs rather than having to "make do" with whatever assets rUK had and was willing to give up.

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