



SCOTLAND'S STATUS AS A NATION

How Scotland Qualifies for the Right of Self-Determination

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The expression "people", as tentatively defined by the United Nations Organisation, denotes a social entity possessing a clear identity and its own characteristics as well as a lengthy common history, and it implies a relationship with a territory. These are the basic elements of a definition for the purpose of establishing whether such a social entity is a “people” fit to enjoy and exercise the right of self-determination. The Scottish qualifications are absolutely unchallengeable on all counts.

This statement was originally prepared for use within the United Nations, the Organisation for Security and Cooperation in Europe and other international organisations when the question of Scotland’s exercise of the right to self-determination was raised there. Scotland’s status as a nation is one of the key aspects to be considered by the national and international authorities, who are generally not very well informed on the subject, when the question arises of diplomatic recognition of an autonomous Scottish state. It is therefore written with a foreign readership in mind, and it emphasises the points that will make the Scottish case in international diplomatic circles.

The basic ethnic component of the Scottish Nation is a fusion of three related Celtic peoples, with later minor infusions of Viking, Flemish and other Germanic blood, especially in the small south-eastern corner of the country. This composition has remained predominant right to the present day, because the demographic movement has overwhelmingly consisted of a movement of population from Scotland, the only major inward movement until very recent times having been extensive immigration by the closely related Celtic Irish. Other recent ethnic immigrants have not altered this composition to the same extent.

No nation in the world is entirely "pure", in the sense of consisting of only one ethnic group, with the possible exception of a native tribe in some remote part of the globe. The decisive factor is the predominant ethnic element in its composition, the assimilation of incomers to its culture, and the distinctiveness of its way of life. The Scottish people have been fused together over many centuries from distinct elements to become a unique whole unlike any other.

The Scottish Nation has occupied its national territory throughout its entire history, for there has never been any other occupant of the land since prehistoric times. Geographically, Scotland is almost an island. It has around 10,000 kilometres of coastline with 130 inhabited islands, and a mere 150 kilometres of land frontier - and that runs for most of its length over uninhabitable mountainous country. There are only two main land routes into and out of the country, on the east and west coasts, as if Scotland were joined to a neighbouring island by two causeways.

This geographical distinctiveness is underlined by the nature of Scotland's topography, with settlements to a great extent concentrated in narrow river valleys, on islands, along the coastline and the shores of fjords, with vast areas of uninhabitable mountainous country in between. Scotland is a typically Scandinavian country - something that is borne out by its geological history, which is totally different from that of England to the south. England, where communications radiate out in all directions, is a detached part of continental Europe.

This distinctive geographical situation, and the climate of a land extending from 54° 38' to 60° 51' north of the equator, is what determines Scotland's geo-economic and hence geo-political situation. There is no more clearly defined geographical, and hence economic, social and cultural entity than Scotland. Consequently, Scotland will remain a natural base unit of political organisation for all the foreseeable future.

The Scottish people are one of the most ancient nations in Europe, with one and a half thousand years of shared experience as a political unit, during which time they have lived continuously within the bounds of their present national territory. While recent archaeological research indicates a history going back for thousands of years, the written historical evidence shows that the Scottish kingdom was founded by Fergus Mor around the year 500 AD. According to the first record of the formal inauguration of a monarch, Aedan mac Gabhran was consecrated King of Scots by St. Columba in the year 574 AD. The Declaration of Arbroath of the year 1320 states that Scotland had till that date been governed by "an uninterrupted succession of 113 kings, all of our own native and royal stock, without the intervening of any stranger". Scotland was a united kingdom by the early 9th century, with the union of the Picts and Scots under King Kenneth I, some 200 years before neighbouring England.

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The present border between Scotland and England was finally established during the Middle Ages, almost exactly on the line of the frontier between the Roman province of Britannia (now England) and the unconquered territory of Caledonia (now Scotland). This is the line at which opposing forces have balanced out down through the ages. The Scotland-England border was definitively fixed by the Treaty of York concluded in 1237 between Alexander II, King of Scots, and Henry III, King of England. Scotland thereby gave up all claims to territory south of that border. Some minor adjustments were made by agreement in 1552, but otherwise the line agreed in 1273, running from the middle of the Solway Firth in the west to the mouth of the River Tweed in the east, has never been altered, and to this day it remains the border between the Scottish and English legal jurisdictions. The 1706 Treaty of Union between Scotland and England, and the subsequent Scottish and English ratifying Acts of Union, all lay down that the jurisdiction of the Scottish courts may not be altered, notwithstanding the Union.

The only border issue comparable with similar cases in Europe concerns the town of Berwick upon Tweed, the strategically situated Scottish border town that was occupied by English troops in 1482 in an act of military aggression with no constitutional force. The Scottish king, James IV, who was anxious to marry the new English king Henry VII's daughter, bowed to superior force and, in the 1502 Treaty of Perpetual Peace with England, agreed that the town and castle of Berwick (but not the rural part of the present Berwick enclave) would continue to be administered by England, while specifically remaining a part of Scotland.

This curious mediaeval anachronism has never been corrected, not even long after Berwick Castle ceased to have any military importance, and it remains the situation to this day. Berwick upon Tweed is still under English administration, but the purely administrative boundary at Lamberton, 4 kilometres to the north of the town, has no constitutional significance. The Scotland-England border at this point is still the mouth of the River Tweed, as it has remained legally for almost eight centuries, and is the starting point for Scotland's marine border. At no time has Berwick ever been transferred to England.

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The factor that makes Scotland's claim of right to self-determination different from almost all others is that its participation within the present United Kingdom of Great Britain and Northern Ireland is not based on conquest or other form of assimilation, but on a treaty under international law as well as two acts of parliament that ratified and implemented the treaty. These measures can, of course, legally be rescinded at any time, since the circumstances that led to their conclusion now no longer prevail, and the disadvantages arising out of the present political structure are becoming daily more obvious. The elected Scottish Parliament and Government are completely competent to negotiate such a withdrawal from the treaty.

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Scotland has a quite unique history of its own. It possesses its own highly distinctive legal and educational systems. The roll call of Scots who have achieved worldwide fame in the fields of learning, and the lists of their discoveries and inventions, would fill volumes. The Church of Scotland is Presbyterian, in the Calvinist tradition, but the Catholic and other Christian denominations are equally distinctive in character, springing as they all do from the early Celtic Church.

Almost all of Scotland's other national institutions are equally distinctive. Scots law is based on totally different principles from those of the legal system of the rest of the United Kingdom, and is more akin to continental European systems in its reception of Roman law. Scotland had a system of compulsory school education from the late 15th century, when its earliest universities were founded.

The Scottish Enlightenment had widespread international effects. Scottish constitutional ideas inspired both the American and French revolutions. The writings of the philosopher David Hume were the foundation for the Constitution of the United States and its numerous progeny around the world. Adam Smith founded the science of political economy, Adam Ferguson that of sociology. In the natural sciences James Clerk Maxwell is regarded as the equal of Albert Einstein.

Scotland was a cradle of the industrial revolution, when the steam engine developed by James Watt revolutionised the world. The list of Scottish scientific achievements is endless: anaesthetic surgery, the bicycle, the telephone, television, radar, penicillin and countless others. The Scottish financial institutions are internationally prominent.

Few people will fail to be aware of the highly distinctive Scottish national dress; even the Roman writers two thousand years ago described the checked tartan patterns of the clothing worn by their unconquerable adversaries, the Caledonians. Many countries share the bagpipe as a musical instrument, but nowhere was it brought to such a pitch of perfection as in Scotland, which is unique in possessing a large repertoire of classical music for it. The Scots share their heritage of Celtic graphic art with their Irish cousins, but in music, dance, literature, architecture and many another field the Scottish culture is absolutely unique in the world. On an international scale, Scotland is one of the few custodians of Europe's ancient Celtic heritage, the preservation of which is a matter that concerns all the peoples of the continent.

The ancient crown insignia of the Kingdom of Scots, the Honours of Scotland, which can be seen in Edinburgh Castle, testify to one of the oldest monarchies in the world. The State Crown is so ancient that its date of manufacture is unknown, although it was remodelled in 1540 for King James V. It was certainly in existence when the reigning Popes presented the State Sceptre and the Sword of State to James IV, King of Scots, in 1494 and 1505 respectively.

The historic Parliament House in Edinburgh, completed in 1639, and now the seat of the Scottish supreme courts of law, indicates the country's lengthy tradition of democratic government in a national Assembly, for which the word "Parlament" was used by a chronicler as early as the year 1174 under William I, King of Scots – the first time in history it has been recorded as a designation for a legislative Assembly.

Scotland's claim of right to self-determination was first raised at international level almost seven centuries ago, when the Declaration of Arbroath was sent in 1320 to the Pope - the then international authority - by the Scottish leaders in the name of "the whole community of the realm of Scotland". It was not an appeal for independence, but an assertion by a people who had been independent since their origins in the mists of history that they were under no circumstances prepared to give up that status for subservience to an aggressor. This important constitutional document confirmed the sovereignty of the people over the institutions of state, and unequivocally asserted the independence of the Scottish Nation, as the following extract makes clear:

"But if this Prince (Robert I, King of Scots)...shall consent that we or our kingdom be subjected to the king or people of England, we will immediately exert ourselves to expel him, as our enemy and as the subverter both of his own rights and of ours, and we will make another king who will defend our liberties.

For so long as one hundred of us remain alive we will never consent to subject ourselves to the dominion of the English. We fight not for glory, or riches, or honours, but for freedom alone, which no good man will relinquish, except with his life."

No other nation in the world possesses a more inspiring declaration of independence. Moreover, its constitutional principles, which have been reinforced over the centuries by Scottish constitutional and legal writers, are fully in accord with modern concepts of democracy.

It cannot, therefore, be asserted that the Scots are not a distinctive people within the meaning of the United Nations definition. They have established their unassailable right to self-determination, and to such degree of self-government as they themselves freely decide to assume without external interference. We anticipate that Scotland's rights in this respect will be unequivocally confirmed and upheld by the international community in Europe and the world, in accordance with the United Nations Bill of Human Rights, the Helsinki Final Act and the other relevant instruments by which all participating states are bound.