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### **Delivering social security**

options in Scotland's constitutional debate : citizenship : choices and capabilities

**Citation for published version:**

Mitchell, J 2014 'Delivering social security: options in Scotland's constitutional debate : citizenship : choices and capabilities' Research paper, vol. no. 6/2013, The David Hume Institute. <  
<http://www.davidhumeinstitute.com/wp-content/uploads/2013/01/Research-Paper-6-2013-Mitchell.pdf>>

**Link:**

[Link to publication record in Edinburgh Research Explorer](#)

**Document Version:**

Publisher's PDF, also known as Version of record

**Publisher Rights Statement:**

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# THE DAVID HUME INSTITUTE



## **Delivering Social Security: Options in Scotland's Constitutional Debate Citizenship: choices and capabilities**

**James Mitchell**

**April 2013**

**Research Paper No. 6/2013**

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**Delivering Social Security: Options in Scotland's  
Constitutional Debate**

**Citizenship: choices and capabilities**

**James Mitchell**

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## Foreword

This is one of a series of papers prepared in the context of our second 'conversation', funded by the Economic and Social Research Council (ESRC), on issues related to possible constitutional change in Scotland. These 'conversations' are being jointly organised by the DHI and Professor Charlie Jeffery of the University of Edinburgh. Professor Jeffery is also a Trustee of the Institute.

The first in the series covered macro-economic policy issues and financial sector oversight and regulation. The excellent papers from that conversation are available on our website. The third 'conversation' is on energy sector issues, in conjunction with the Scottish Council for Development and Industry (SCDI); and the fourth on competition policy and regulation, for which we have the full support of the Scottish Government. The initial round-tables have been held for both of these 'conversations' and excellent draft papers prepared. All four will be completed, with the papers available on our web site, by end May 2013.

In each case our approach has been to commission papers from informed parties, then run a round table with key players. After the round table we ask authors to re-visit their papers, to be published online at the time of a full DHI seminar, open to all.

This second 'conversation' covers issues related to social security and welfare under alternative constitutional settlements. We received papers from; David Bell, Derek Birrell and Ann Marie Gray, Bea Cantillon, Nicola McEwen, Ailsa McKay and Jeremy Purvis.

These are all now available on our web site. Taken together they provide a remarkably stimulating and wide-ranging assessment of the key issues and options - including informed input on experience outwith GB.

Our round table was held at the Royal Society of Edinburgh on 11 December 2012 and the full seminar was held on Monday 19th February, again at the RSE. In addition to our authors' inputs, we arranged that Professor James Mitchell of the University of Strathclyde would sum up issues at the end of the round table and then set proceedings underway - in a constructive direction - at the seminar. This latest paper has been prepared by Professor Mitchell after the seminar, but based upon his contribution at that event. I believe that it certainly merits being added to the papers already published, as his views and analysis clearly add value.

As with the other 'conversations' we have agreed with our friends at Scotland's Futures Forum that there should be a further round table, this time with MSPs in the autumn.

My Trustees and I are extremely grateful to the ESRC and the Binks Trust for their support; to Charlie Jeffery for organising the 'conversation'; to James Mitchell for his crucial input; and to all of our excellent group of authors. Together we believe we have made an important, evidence-based, informed and transparent contribution to this important topic within the context of the critical debate in Scotland on possible constitutional change. At the same time, however, the DHI, as a charity, can have no views on these issues and hence I must record that the views expressed in this and the related papers are those of the authors and not of the Institute. Nevertheless we commend them to your attention.

Jeremy Peat  
Director, David Hume Institute

## **Delivering Social Security: Options in Scotland's Constitutional Debate**

### **Citizenship: choices and capabilities**

**James Mitchell**

The debate on Scotland's constitutional status has a number of dimensions. One school of thought has viewed it as a clash of competing nationalisms: Scottish *vs* British/UK nationalisms. There is little doubt that on either side there are combatants – and this does indeed appear to be their self-perception – who will support their country, whichever it is, right or wrong. These are people less concerned with what kind of Scotland or UK exists than the flag to be flown over public buildings - who either refuse to engage in outlining the kind of state and society they envisage or simply use instrumental arguments instrumentally.

But an alternative debate exists – and though it gets little airing in the media – it is important and deserves attention. There has long been ample evidence that support for constitutional reform was contingent rather than springing from the view that a nation has an automatic right to become a state. While the elites engage in endless, arid argument over whether international treaties have to be renegotiated or are inherited, the appetite amongst the public is for some sense of how constitutional change will affect their daily lives, if at all.

In this debate, the questions are:

- what kind of Scotland/UK will we live in?
- who will belong to this Scotland/UK?
- what rights, privileges and responsibilities people will have in Scotland/UK?

This is a debate about the kind of welfare state we want as much as anything else.

It is a debate within a liberal democratic framework that focuses an observation about liberal democracies made by Hannah Arendt, one of the most important philosophers of the twentieth century. Arendt wrote about having the '*RIGHT TO HAVE RIGHTS*', and '*A RIGHT TO BELONG TO SOME KIND OF ORGANIZED COMMUNITY*'.

Liberal democracies espouse thinking associated with the Scottish Enlightenment of universal individual rights. But liberal democracies are organised into sovereign states, with each state permitted considerable autonomy in defining these rights and who should have access to these rights. State sovereignty allows states to deny rights to individuals or categories of individuals, to turn away refugees from other places.

Elsewhere, I have spoken about this RIGHT TO BELONG – who would be given citizenship and whether a Scottish or UK state would come closest to Enlightenment thinking. Today, we address the RIGHT TO HAVE RIGHTS and consider the rights available in an independent Scotland compared with those now available and likely to be available in the future.

There are FOUR key points I want to stress:

- i. No-one can – nor should be expected to – answer these questions precisely but we should expect some sense of the kind of state and society envisaged by both sides.

- ii. This is a debate about choices and capabilities. Each potential future will involve making choices about the kind of state and society we live in but within our capabilities to deliver.
- iii. Capabilities also involve choices. Wealthy states – as Scotland or the UK would both undoubtedly be – must decide on how that wealth is distributed. We want to have our cake and eat it: we want high levels of welfare and low levels of taxes – this is primarily a CHOICE, though one bounded by other considerations.
- iv. The welfare state status quo is not an option.

Let me explore each of these in turn.

## I. THE KIND OF STATE/SOCIETY ENVISAGED

We should expect some idea in broad terms of the kind of state and society envisaged under either future scenario. Both sides of this debate support some form of welfare state but welfare states come in different shapes and sizes. We have witnessed significant changes in the provision of welfare in the UK over time and there will be further changes in the future. Much is unpredictable under either constitutional scenario.

Indeed, anyone making precise claims should be treated with suspicion. If we have learned one lesson in recent years then surely it is the need for a greater degree of humility in forecasting in the social sciences – dare I say especially economic. But we should expect some sense of the direction from both sides of this debate.

All we can say with anything approaching certainty is that what we have now will change. This is not a debate between the status quo and change under independence. This is a debate between two forms of change in terms of welfare rights. The simple-minded assumption that the constitutional status quo equates with the welfare status quo should be dismissed.

In 1999, no-one could have predicted the policies pursued by the Scottish Parliament with anything approaching precision. One-dimensional public opinion surveys failed to capture the kind of changes that emerged and failed to predict the kinds of changes that occurred. Created as a means of ‘stopping Thatcherism at the border’, Holyrood developed its own welfare logic. In detail, it was unpredictable but in broad terms it was highly predictable.

Devolution debates were closely associated with debates on welfare issues. In that debate, as I argued at the time, people in Scotland expressed support for continuity. But they wanted continuity of the welfare state, not necessarily the way the UK was structured constitutionally. Whether that was provided by a centralised or devolved state, for many people, was secondary. That has not changed significantly – many Scots want to retain the state to which they owe most loyalty – not the UK state, nor a putative Scottish state but some – ill-defined - welfare state.

There was much naivety in the early years as to what devolved government could do – an expectations gap existed between what it could do and what people wanted from it. This was largely hidden in the first decade of devolution due to the phenomenal rising levels of public expenditure across the state. This public financial backdrop meant that decisions were made piecemeal and on an implicit assumption that spending levels would be maintained.

## II. CHOICE AND CAPABILITIES

This is about a choice between the direction of travel towards potentially different types of social welfare. It may be that an independent Scotland and the UK would travel in the same direction at different speeds, though this seems unlikely. Choices will be constrained by a number of factors. Three are of particular relevance to this debate: available political support, public finances, and spill-over implications.

Political support: what is very clear is that Scotland has diverged with rUK in public policy terms within the existing framework of devolution and that seems unlikely to change with more powers.

Public finances: The extent to which Scotland could afford to pursue more generous welfare remains a matter of contention though the old assertions about Scotland's inability to afford basic welfare are now only made by the most partisan. It should also be noted that there remains considerable scope for using existing spending much more wisely – short-term decision-making over many decades, especially appalling during periods of significant increases in spending, has resulted in Scotland failing to make the necessary shift to preventative spending. That shift will prove difficult to make in the current situation but needs to become a priority as soon as is feasibly possible.

Spill-over implications/externalities: It has been suggested that the current constitutional arrangements create few incentives to prioritise growth but instead encourage spending on services. That will change with independence or possibly under alternative models of devolution. Devolved government added a democratic layer to the Scottish Office - a system that was a highly efficient lobbying voice for Scotland within government. It has not made it as responsible as it might have done.

## III. CAPABILITIES ALSO INVOLVE CHOICES

One of the paradoxes of Scottish politics has been that its two main parties – the SNP and Labour – are both instinctively social democratic yet there is a marked reluctance to face up to the challenge of explaining how welfare would be funded into the future and whether each will to confront challenging new ideas.

We could afford generous welfare under either constitutional scenario but the marked reluctance to confront this has limited this debate. There is a need for a healthy and open debate on the balance of tax and spend – informed by the kind of society we want rather than allowing any group to limit possibilities by claims – and that is all they are – claims – that some scenarios are not possible.

## IV. THE STATUS QUO IS NOT AN OPTION IN TERMS OF WELFARE

What is clear is that the welfare state as we know it is changing. The nature of employment has changed and is changing. The demography of Scotland is changing. Our needs as a society are changing. This needs to be incorporated into the debate. We should not delude ourselves into thinking that welfare can remain as it has been. Regardless of the constitutional status of Scotland, welfare provision will change.

Devolution had small 'c' conservative support – a defence against the prospect of a capital 'Conservative' Government rolling back the welfare state.

There may be little agreement (within the Government, far less within the NO camp) as to the extent and manner in which the welfare state is changing now but there seems little doubt that it is changing. The constitutional status quo means uncertainty as far as welfare is concerned.

The questions that will have to be answered by supporters of independence as far as welfare is concerned are at least as relevant as far as the constitutional status quo is concerned.

But there are other real world developments that should not be ignored as attention focuses on the implications for welfare of the debate on independence. Considerable innovation is occurring in everyday practices throughout Scotland as the recommendations of the Christie Commission are implemented.

Against the backdrop of the adversarial debate on the constitution, considerable work is taking place implementing at least some aspects of the Christie Commission's recommendations. It may not have been noticed by those focused on party politics or the Holyrood village – and how disappointing, if hardly surprising, it has been that we now have our own equivalent of the Westminster village here - but much is happening and much needs to be done. There is little danger of the many people involved in this work losing sight of this activity but it would be useful to those with a narrow focus on the 'history making' debate on the constitution to occasionally raise their heads and become more acquainted with these 'day to day' developments.

## **Conclusion**

The main difference between today's debate and the constitutional debate in the 1997 referendum is the greater degree of uncertainty surrounding welfare in the years ahead, regardless of how Scots vote in 2014. This will make voting difficult, at least for those basing their vote on something other than the self-evident truths of British and Scottish nationalism. Such information as exists is all too often suspect - often coming from players in the game masquerading as umpires. Whatever is decided, it will involve a leap of faith. There can be no definitive answers. There never are in liberal democracies. But there can be serious debate. That is required if we are to begin to understand the differences between the RIGHT to RIGHTS and questions of WHO BELONGS between our choice of states.

Hannah Arendt had been concerned that the liberal democratic contradiction would undermine RIGHTS (though for her especially the rights of stateless people). This constitutional debate allows us to consider this liberal democratic contradiction on rights – welfare rights – in terms of choices and capabilities between competing territorial and potentially welfare states.

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