
The United Kingdom, Nuclear Weapons, and the Scottish Question

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Among the states that possess nuclear weapons, the United Kingdom is now regarded as one of the least problematic. Long established and recognized as a nuclear weapon state (NWS) under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), it has a stable democracy, competent administrative system, disciplined military forces, and a cooperative approach to international security. It is a trusted member of the North Atlantic Treaty Organization (NATO) and a close ally of the United States.

Yet a consensus on nuclear policy has not been easily sustained at home. Among the NWS, the United Kingdom has also been notable for the strength of its grassroots campaigns against nuclear weapons. In the 1980s, unilateral disarmament was even adopted as the official policy of the Labour Party. A broad interparty consensus on nuclear policy was only reinstated in the early 1990s when the Labour Party abandoned unilateralism in its pursuit of electoral success. The divisiveness of the period nevertheless helped to create a climate in which U.K. governments became more concerned than ever to show that the U.K. nuclear force was only a minimum deterrent, and that the United Kingdom was committed to an international nuclear order built around the pursuit of arms control and eventual multilateral disarmament. In the 1998

Strategic Defence Review, the government announced that the total U.K. operational arsenal would be reduced to fewer than 200, the smallest arsenal of the five recognized NWS.

Short of the emergence of a major new external threat, an apparently durable consensus in the U.K. government and Parliament therefore exists today around a low-key minimum force posture combined with support for arms control. That consensus has so far withstood the political and strategic upheavals that have followed the Indian and Pakistani nuclear tests, the U.S. embrace of missile defense, the events of September 11, 2001, and other developments.

Despite U.K. nuclear policy attaining this stability, a new challenge is emerging from an unexpected source: the process of constitutional change initiated in the late 1990s leading, in particular, to the establishment of a new legislature and executive in Scotland. After a referendum in 1998, a Scottish Parliament met in Edinburgh in 1999 for the first time in almost three hundred years, signaling the beginning of a new era in the political history of the United Kingdom.

Why does the establishment of the Scottish Parliament and Executive have implications for the U.K. nuclear de-

terrent? The main reason is that the U.K. nuclear force has been entirely located in Scotland since 1998, when free-fall nuclear bombs previously deployed by the Royal Air Force were scrapped. The four Vanguard submarines with their Trident missiles, which operate out of the complex of rivers, estuaries and sea lochs known as the Firth of Clyde, then became the only U.K. nuclear delivery system. Operation of Trident will henceforth require extensive cooperation between public bodies in England and Scotland, some of which will answer to the Scottish Parliament and Executive, despite the U.K. government retaining sole responsibility for nuclear weapon policy and for controlling the deterrent. In addition, the Scottish National Party (SNP), the main opposition party in the Scottish Parliament, is committed to removing nuclear weapons from Scottish territory. If the SNP becomes the largest party in the Scottish Parliament after a future election, it has also pledged to call a referendum on Scottish independence.

This article draws on the findings of our recent book on these developments and their implications.² Three particular questions will be addressed here. What are the consequences (actual and potential) of devolution for the operational and political management of the U.K. nuclear deterrent, and for policy decisions relating to it? What political, legal, and military options in regards to the nuclear force would be available to the Edinburgh and London governments if the Scottish people voted for independence, and how realizable would they be? And what lessons can be drawn for wider international debates about the fragmentation and collapse of nuclear-armed states? The article opens with brief sketches of the political history of the United Kingdom and the history of its nuclear force in Scotland, to provide background to the main discussion.

We do not wish to suggest that some imminent crisis is about to befall U.K. nuclear policy. Nor are we suggesting that the fragmentation of this nuclear weapon state would, if it ever occurred, be threatening to regional or global security. It would not be an event having anything like the repercussions of the collapse of the Soviet Union for international nuclear relations. It is nevertheless worth understanding that the stability and continuity of the U.K. deterrent cannot be taken for granted, and that this stability and continuity may have to be rebuilt politically in significant ways if the deterrent is to survive. Its future now depends on developments in Scotland and on its relations with the rest of the United Kingdom as much as on mili-

tary and economic calculations. Over the long run, nuclear-armed states are as fragile as any other states.

THE CONSTITUTIONAL HISTORY OF THE UNITED KINGDOM

The United Kingdom is an unusual state. It is not a unitary state in the French tradition, nor is it a federal state like Germany or the United States. It has sometimes been referred to as a union state, a coming together of three disparate kingdoms (England, Scotland and Wales) and an Irish province under a single political authority in London. Each part of the union has retained its distinctive culture and institutions, especially Scotland whose church, legal, and education systems have remained separate from those established elsewhere in the United Kingdom, and which has its own traditions extending from food and dress to music and literature.

The current political shape of the United Kingdom developed over many centuries.³ It involved the English conquest of Wales in the 14th Century, the long struggles between England and Scotland in the Middle Ages followed by the union of their crowns in 1603 and parliaments in 1707, and the absorption of Ireland in 1801. The union gained strength from great economic dynamism in Britain and imperial expansion in the 18th and 19th centuries. However, allegiance to it weakened in the 20th century despite the unifying effects of two World Wars. Prime Minister Gladstone's vision of a federal Great Britain was finally abandoned after civil war resulted in Ireland's division into the Irish Free State and Ulster in 1921, the latter remaining part of the United Kingdom as Northern Ireland.

While Scotland was never as rebellious as Ireland, repeated concessions have had to be made to the Scottish sense of separate identity in order to hold the United Kingdom together.⁴ A Scottish Secretary was appointed in the late 19th century to represent Scottish interests in the U.K. cabinet in London; the administration of health, education, and other social services were transferred to Edinburgh, the capital of Scotland, in the 1930s; and a rapid growth in votes for the independence-supporting SNP in the 1960s and 1970s led to a referendum in 1978 on the re-establishment of a Scottish Parliament with devolved powers.

The 1978 referendum failed. But widespread unease at rule from London led to the convening in Edinburgh in 1989 of a cross-party Constitutional Convention which

went on to develop a framework that would give Scotland greater autonomy within the United Kingdom. Its proposals were adopted by the Labour Party in its manifesto for the U.K. General Election in 1997. The Labour Party's victory was followed by a second Scottish referendum in September 1997, which this time gave decisive support to devolution. The Scotland Act establishing the Scottish Parliament and Executive gained Royal Assent in November 1998, and the Scottish Parliament opened in Edinburgh on 1 July 1999. In parallel, Welsh and Northern Ireland Assemblies were established in Cardiff and Belfast, albeit with lesser powers.

As a result of these changes, the political structures of the United Kingdom are now even more of a hodgepodge than they were before. The U.K. Parliament (also known as the Westminster Parliament) has retained its constitutional supremacy and the principal tax-raising powers, but responsibility for legislating on a wide range of policy issues in Scotland (such as education, legal reform and social policy) has now passed from its hands. Although Scottish Members of the U.K. Parliament (MPs) can still vote on legislation that only affects England, English MPs no longer have a say in many areas of policy in Scotland, and England has no devolved assembly of its own.⁵ Furthermore, members of the U.K. Parliament in Westminster are elected through a "first past the post" or majoritarian system, whereas proportional representation has now been adopted in Scotland, leading to the unfamiliar practice of coalition government north of the border.⁶ Most peculiar, the Scotland Act of 1998 provides Scotland with a *de facto* written constitution whereas the United Kingdom still has none. And the judiciary is the supreme arbiter in the new Scottish polity, whereas parliament remains supreme in the United Kingdom.

These constitutional anomalies imply that the United Kingdom is still a state in transition. Will devolution end up preserving or destroying the union? No one can tell. Some believe that nationalist pressures will be blunted as the Scottish Parliament assumes its new role, and that an ingrained skepticism about the benefits of breaking the union will provide a check to independence. Others are less sanguine.⁷ The big test will come, as it one day will, when different political parties come to dominate the Scottish and U.K. Parliaments. At present, the Labour Party holds a majority in both Parliaments, ensuring some consistency of approach north and south of the border. Any weakening of its hold over power in either place could spell trouble, especially if the SNP and the Conservative

Party became the largest parties in the Scottish and U.K. Parliaments respectively.

THE U.K. NUCLEAR FORCE AND ITS HISTORY

The major decisions regarding the U.K. nuclear deterrent were taken before devolution happened. It is necessary to explain the structure of the nuclear force that is now located in Scotland, and its reason for being there, before considering how the political and military currents may henceforth intersect.

The Capabilities at Faslane and Coulport

Located on Gareloch on the Firth of Clyde, some 25 miles from Glasgow, HM Naval Base Clyde at Faslane is home to four Trident ballistic missile submarines. After extensive modernization and development during the 1980s and 1990s, the facilities at Faslane now provide submarine support services of various kinds, including a floating jetty and massive ship lift, engineering stores, electricity generating equipment, and training facilities and accommodation for six Trident crews. In addition, Faslane is the main operating base for five Swiftsure-class nuclear-powered attack submarines and seven mine counter-measure vessels. Three Astute-class submarines will be based there when they enter service (replacing the Swiftsure-class) from 2005 onwards. In total, the Clyde naval base houses several thousand personnel, including large contingents of Ministry of Defence Police and Guard Service and part of the Fleet Royal Marine Protection Group.

The Royal Navy Armament Depot (RNAD) at Coulport is integral to the nuclear capability of Trident. Situated on Loch Long, Coulport is 5 miles from Faslane by road and 13 miles by sea. It contains a covered floating explosives handling jetty from which warheads can be safely loaded onto, and unloaded from, on-board missiles using overhead cranes. Coulport contains secure facilities for warhead maintenance and storage, and for the storage and loading of conventional torpedoes, as well as a capability for removal and storage of Trident D5 missiles for minor repair and emergency work.

In order to reduce the costs of the Trident program, the U.K. Government decided in 1982 that the servicing of Trident missiles would take place at the U.S. Trident base in King's Bay, Georgia. Trident boats now begin their ten-year operational cycle by picking up missiles at King's Bay before sailing to Coulport to be armed with warheads. Shortly before the boats are due for long refit, the pro-

cess is reversed. Refits and refueling of the submarines (emptied of their missiles and warheads) will be carried out at Devonport in England. Trident warheads are manufactured and assembled at Aldermaston, also in England, whence they are transported by road to Coulport.

Why Was Scotland Chosen in the First Place?

How did Trident come to be based in Scotland? The story begins around 1960 with the U.S. search for operating bases from which the new Polaris submarine-launched missiles could reach Soviet targets. Mainly for geographical reasons, Scotland became the favored location in the United Kingdom, and Holy Loch in the Clyde was selected after a review of possible sites. Holy Loch best satisfied the U.S. requirement for “a sheltered anchorage with access to deep water and situated near a transatlantic airfield and a center of population in which the American service personnel and their families could be absorbed.”⁸

As the United States and the Soviet Union moved into the missile age, the United Kingdom found it increasingly hard to maintain an indigenous nuclear weapons program that was already straining its limited economic resources. When its attempt to develop an indigenous ballistic missile (Blue Streak) was abandoned in 1960, the government turned to the United States for an alternative means of overcoming Soviet air defenses: the Skybolt air-launched ballistic missile. When this in turn was abandoned by the United States in 1962, Prime Minister Macmillan persuaded President Kennedy to sell Polaris missiles to the United Kingdom.⁹

A working party was established in February 1963 to review possible basing options. A large number of possible locations throughout the United Kingdom were examined against a list of criteria, of which the most important were operational suitability (including safe navigation and berthing and secure approaches), safety, and cost. In order to meet safety requirements, the armament storage and maintenance facility (in the RNAD) would have to be separated by at least 4,400 feet from the other elements, with its own berthing arrangements. At the same time, in order to avoid lost time in the vital three weeks available for maintenance between patrols, it was “most desirable” that separation between the RNAD and the operating base should not exceed one hour’s sailing.

Many sites were quickly dismissed because they lacked deep water or other essential operating requirements. The

working party produced a short list of 10 possible sites: Devonport, Falmouth, Portland (on the south coast of England); Milford Haven (in Wales); and Loch Ryan, Gareloch, Loch Alsh, Fort William, Invergordon and Rosyth (in Scotland). The final choice was between two sites in Scotland: Rosyth near Edinburgh on the east coast, and Faslane at Gareloch on the Clyde. Faslane was eventually chosen mainly because of the strength of the Admiralty’s arguments on operational grounds, and nearby Coulport became the site for the RNAD.

Once the basing decision was confirmed in March 1963, construction proceeded rapidly, with all essential facilities available in time for the first Polaris boat to begin patrol in June 1968.¹⁰ It was the first new naval base in the United Kingdom since Rosyth’s establishment in 1909.

In July 1980, the U.K. government announced its intention to replace Polaris with the Trident C4 missile system, subsequently switching to the more capable, and larger, Trident D5 so as to maintain commonality with the United States. There were obvious cost and operational advantages in developing the existing facilities at Faslane and Coulport for Trident. Despite the controversy over devolution in the late 1970s, the possibility of future Scottish independence does not appear to have been mentioned in discussions of alternative locations. The first U.K. Trident submarine became fully operational in 1994, the fourth and last in 2001.

Could Trident be Relocated?

A common initial response to the dilemmas revealed by our studies has been—so what? In the event that the basing of Trident in Scotland creates difficulties for the operation of the U.K. nuclear deterrent, why not simply move Trident elsewhere? The answer is that Trident could only be relocated with the greatest difficulty.

If forced to reexamine the issue, the U.K. Ministry of Defence (MoD) would probably revisit the 1963 study. Many of the criteria used would be substantially unchanged since that time. Especially in relation to safety, however, the regulatory environment would be more hostile to new development than it had been forty years ago, and the government would have to contend with planning laws that give much greater opportunity for political and legal challenge and for delay.

Perhaps the most plausible sites in England and Wales would be Devonport (on the south-west coast of England) and Milford Haven (on the coast of Wales).¹¹ Devonport

would have its advantages. It has logistic advantages (shorter lines of supply to Aldermaston and to naval stores) and is under MoD ownership. It is already the largest naval base in Western Europe and the channel to the sea was widened to allow the large Trident boats to enter following the 1993 decision to use Devonport for their major refits. The location of all U.K. nuclear submarines, together with related refit work, at a single location would bring savings compared with building an entirely new base.

Yet space at Devonport Naval Base is already at a premium.¹² The location of the RNAD could be an even more serious obstacle. In 1963, one of the main reasons for the rejection of the Devonport option was concern at the proximity of the only possible location to built-up areas. Safety distances have increased subsequently, both because of the greater explosive power of Trident missile propellant and increased public sensitivity to risk.

An alternative to Devonport is Milford Haven Sound in south-west Wales. It has a deep water harbor, good access to the Atlantic Ocean and is remote from large population centers. One naval interviewee suggested it would be “an ideal spot” from a practical point of view.¹³ However, relocation to Wales would raise many of the same political difficulties as Scotland, particularly if the success of Scottish nationalism were accompanied by parallel developments in Wales.

The relocation of the Trident system could therefore only be arranged at great financial cost and political risk, and would take a long time to realize. Even in the event of Scottish independence, a London government committed to maintaining its nuclear force would first want to do whatever it could to avoid having to contend with all the difficulties that relocation would involve. It would prefer to leave Trident where it is.

TRIDENT AND DEVOLUTION

The Scotland Act of 1998

The redistribution of powers between U.K. and Scottish political institutions that followed devolution was elaborated in the Scotland Act, which the U.K. Parliament passed into law in 1998. The act defined the powers that remained with the U.K. Parliament and government (reserved matters) rather than the powers that would be transferred to the Scottish Parliament and Executive (devolved matters).¹⁴

The act unequivocally reserves defense and foreign policy to London. Where defense is concerned, the reserved matters are defined as:

- (a) the defence of the realm;
- (b) the naval, military or air forces of the Crown, including reserve forces;
- (c) visiting forces;
- (d) international headquarters or defence organisations ...¹⁵

In consequence, nuclear weapons policy remains the responsibility of the U.K. government alone. The Scotland Act reinforces this monopoly by its grant to the U.K. government of rights to prohibit a bill passed in the Scottish Parliament from gaining Royal Assent (and thus becoming law) if it “has reasonable grounds to believe [that it] would be incompatible with any international obligations or the interests of defence or national security.”¹⁶ Furthermore, the Scotland Act grants the U.K. Government “sole control of nuclear, biological and chemical weapons of mass destruction,” and it reserves matters to London pertaining to “nuclear energy and nuclear installations, including ... nuclear safety, security and safeguards,” and to the transport of radioactive material.¹⁷

When the Scotland Act was being drafted, the MoD did its best to clad it in a suit of armor to prevent any Scottish intervention in nuclear policy. The ring-fencing by the Scotland Act of nuclear policy is not, however, the end of the matter. The devolution settlement of 1998 undoubtedly complicates the *implementation* of nuclear weapons policy by the U.K. government. The operation and maintenance of the Trident force and its installations inevitably involve civil activities and authorities, responsibilities for which are either clearly devolved to the Scottish Parliament and Executive or fall into some legal no man’s land between London and Edinburgh. Examples of the former are land-use planning, policing, and environmental protection. Examples of the latter are emergency planning and accident response. Thus the implementation of nuclear weapons policy requires a close and continuous cooperation between political and administrative bodies north and south of the border. It also requires clarification of the precise division of responsibility between them, and a process for achieving that clarification.

The Defense Concordat

An agreed “Concordat between the Scottish Ministers and the Secretary of State for Defence” is the mechanism through which these objectives are being sought.¹⁸ Whereas concordats drawn up in other fields mostly run to one or two pages, this one runs to eleven. Twenty-eight fields of reserved activity are identified in an annex to the concordat, including the “installation, operation and decommissioning of any nuclear installation or device for the purposes of the armed forces of the Crown.” This first section of the annex is followed by a second, which identifies “areas of cooperation between the MoD and the Scottish Executive.” Its five pages are subdivided into “matters affecting defence activities,” “organizations and personnel,” “information,” and “ownership of land and property.” The headings include:

- radioactivity, explosives and other dangerous materials (use, storage, carriage, disposal);
- nuclear accident response and other emergency planning;
- matters affecting training;
- general policing and security matters;
- freedom of information legislation, and exemptions from the provision of information or powers of entry on grounds of national security; and
- environmental issues.

The reality is that the U.K. nuclear force cannot now be operated without the full co-operation of Scottish political and administrative bodies. Their role has been made even more significant by the events of September 11, 2001, and the heightened awareness of the vulnerability of Faslane and Coulport to terrorist attack. The enhancement of protective measures will inevitably involve Scottish local authorities, police and other public bodies.

Roles of the Scottish and U.K. Parliaments

The Scottish people now elect politicians to two parliaments, one in Edinburgh and the other in London. On paper and in law there is a division of labor between them, with the Scottish Parliament only legislating on devolved matters such as education and social welfare. To a citizen of the United States, this division might appear akin to a state legislature deferring to the U.S. federal government on some well-defined issues but keeping others to itself. But it is not so simple: the U.K. political system is not federal, and Scotland has an identity as a nation, and a

historical memory of sovereignty and international standing that it enjoyed over many centuries. Opinion polls suggest that the Scottish Parliament, for most Scots, is already supplanting the Westminster Parliament as *the* place in which their interests are represented. This shift has happened despite much criticism in the Scottish press of the performance of the Scottish Parliament in these early years. Its perceived importance will probably be increased by the 2003 elections to the Scottish Parliament which are already attracting political attention north of the border, by the opening of the new Parliament building in Edinburgh (to a design by a Catalan architect), and by the ending of the temporary practice whereby the same persons were elected to the Edinburgh and Westminster Parliaments.

For reserved matters, the difficulty is therefore that responsibility for policy formulation and for legislation resides entirely in London, but that the Scottish people increasingly regard Edinburgh as their center of governance. Of course, many Scots are involved in government in London as civil servants, MPs and government ministers (Gordon Brown, the influential Finance Minister, being just one of them). This presence ensures Scottish influence over and involvement in policy formulation, but it does not alleviate the perception that the Scottish Parliament now has equal or superior rights and responsibilities to protect Scottish well-being and interests across the board. What may appear legally straightforward is not politically and psychologically straightforward.

Nevertheless, it needs emphasizing that the growing political and institutional divergence of Scotland and England has at no time been evident in the armed forces. There has been no questioning of the primary loyalty of Scots to the Crown and parliament in London. Indeed, the armed forces remain one of the strongest sources of political unity in the United Kingdom, even if this does not discourage significant numbers of their members from voting for the SNP. Regimental loyalties remain cultural rather than political.

As a result, the reservation of foreign and security policy to the government in London has been one of the least contested elements in the Scotland Act, and the U.K. government’s conduct of that policy has been largely uncontroversial north of the border. Nuclear policy is the one exception. The opposition of the SNP to the stationing of nuclear weapons in Scotland has been unremitting, there are anti-nuclear voices within the Labour-Liberal

coalition that holds power in Scotland, and there is a strong protest movement which constantly makes its presence felt around Faslane.¹⁹

The Scottish Parliament has the right to debate any reserved matter even if it cannot legislate on it. Hitherto, it has not exercised that right in the nuclear field, mainly because the Labour Party in Scotland has not wished to create difficulties with its parent party in London by intruding on such sensitive political territory. How long this situation will continue is hard to say, but there are four circumstances in which the Scottish Parliament could be drawn inexorably into nuclear politics.

We have already alluded to the first circumstance above—the prospect that different political parties will gain ascendancy in the two parliaments, especially if the party in Scotland were the SNP (possibly gaining sufficient MSPs to lead a coalition but insufficient to justify calling a referendum on independence).²⁰ While the SNP would still be legally bound to honor the Scotland Act and its reservation of foreign and defense policy to London, and would be keen to honor those commitments to demonstrate its fitness to govern, it could undoubtedly make life awkward for the U.K. government in the nuclear as in other fields. It has stated for instance that it would not feel bound by the concordats, which have no legal status. One can also easily imagine, for example, the SNP launching parliamentary inquiries into safety at the nuclear weapon sites, among other issues.

Secondly, the occurrence of a serious accident involving nuclear material at or near Faslane or Coulport would bring intense pressure to bear on the Scottish Parliament and politicians, of whichever party allegiance, to subject the issue of basing Trident in Scotland to public debate. The uproar amongst the ultra-loyal citizens of Gibraltar during 2000 and 2001 over the docking and repair of the damaged British attack submarine *Tireless* has shown how rebellious local and regional governments can become. Such problems are especially severe when local officials feel unable to guarantee their citizens protection from harm, and if they believe that they have been denied accurate information on the risks to which people are being subjected. Any terrorist attack or threatened attack could have similar consequences by exposing the costs and risks faced by the large populations living in close proximity to the bases. The Royal Navy and MoD are therefore coming to understand that Scottish tolerance of Faslane and Coulport is now contingent upon the very highest levels

of safety and protection of Trident and its associated facilities.

Thirdly, the political salience of U.K. nuclear strategy has been very low since the end of the Cold War, given the absence of “present dangers.” Should the United Kingdom again be seriously threatened with military attack, turning Trident into an active rather than a largely dormant military capability, its presence in Scotland would probably become much more highly politicized. The anti-nuclear movement in the United Kingdom has always waxed and waned according to the intensity of foreign threats (it peaked in the late 1950s and early 1980s, the most frightening periods of the Cold War in Europe). Post-devolution, a revived movement could have even greater potency in Scotland, and would probably attract adherents from all the main parties in parliament (with the likely exception of the Conservatives).

Even without direct threats to the United Kingdom mainland, a shift in nuclear strategy that increased the likelihood that Trident might be used in anger could similarly politicize nuclear weapons in Scotland. Such a shift could happen, for instance, if the proposals now current in the United States to deploy ground-penetrating nuclear weapons for tactical purposes were seen to be increasing the possibility of their actually being used in practice (an unlikely prospect at the moment, but it cannot be ruled out in the future).²¹ There is a real sense in which acceptance of Trident is contingent on its being denied a military role except *in extremis*.

Fourthly, there is the issue of replacing Trident. The Trident system with its Vanguard submarines began to enter service in 1994. Grant it a 30-year operational lifetime and the MoD would have to begin detailed studies of replacement options around 2010.²² A replacement decision would need to be made around 2015, giving sufficient lead-time for design and development, manufacturing, and commissioning. Whether 30 years is the likely lifetime for Trident is open to question. Some claim that the submarines and missiles are so robust that they could be made to last for 40 or 50 years with periodic refurbishment.²³ Others claim that no system of this complexity can be expected to meet exacting standards of performance and reliability over such a long period. U.S. decisions on its own Trident system (which entered service earlier) will also come into play, given the reliance of the United Kingdom on the United States for the supply and servicing of its missiles.

The Scotland Act places no obligation on the U.K. Government to involve or consult with Scottish ministers or the Scottish Parliament when considering the replacement of Trident. Still, it would be very risky to decide on Trident's replacement by an equivalent system on the Clyde without a dialogue between London and Edinburgh. Too much has changed for the closed and centralized procedures followed in the 1970s to be repeated without substantial political fallout. An approach would therefore have to be found which would bind the Scottish polity into supporting the new system over its lifetime, while at the same time not eroding the principle that nuclear policy is a reserved matter. Such an approach would not be easily agreed. In our view it would have to entail demonstrations of support in both the U.K. and Scottish Parliament. If that outcome could not be secured, the legitimacy in Scotland of the replacement system would be thrown into doubt. Serious strains in relations between Scottish and U.K. political institutions could follow. Come what may, the "Scottish question" is therefore likely to be a significant factor when the replacement issue is addressed.

The uncertainty thus created, together with the massive costs that replacement will inevitably involve, will undoubtedly encourage the MoD to extend the lifetime of the current Trident system as long as possible. If and when a replacement decision becomes inescapable, moreover, it may encourage the investigation of more radical options than would have been contemplated in the absence of a "Scottish question." These options may look more attractive owing to the complexities of nuclear basing under devolution, and the shadow that the possibility of future Scottish independence might cast on the wisdom of large fixed capital investments.

Given the difficulties involved in finding an alternative site in the rest of the United Kingdom for a submarine-based system—and the political impossibility of contemplating such an alternative while Scotland remains in the United Kingdom—the MoD may seek to explore the replacement of Trident by other delivery systems (such as air-launched missiles), which could be located, albeit still with difficulty and at lower levels of alert and survivability, in England. Yet this option would raise various questions, including whether new warhead designs would have to be developed and how that might be achieved given the ratification by the United Kingdom of the Comprehensive Test Ban Treaty (CTBT). It therefore still seems probable that a replacement for Trident, if there is one, will be submarine system based at Faslane.

WHAT IF SCOTLAND BECAME AN INDEPENDENT SOVEREIGN STATE?

Whether Scotland will become an independent state is beyond prediction. In the near-term it is unlikely. But in the medium and long terms, over the lifetime of Trident, everyone active in U.K. politics accepts that it is a possibility. That possibility has even been acknowledged by political leaders, including Margaret Thatcher and Tony Blair who have stated that the U.K. Government would respect a Scottish decision to become independent, provided that it were freely arrived at through democratic processes. The use of (effectively English) political or military power to obstruct Scottish independence has therefore been ruled out.

The Soviet Union already provides a precedent for the breakup of a nuclear weapon state. While some lessons can be drawn from that event, the authors have been surprised how little guide it gives to the kinds of issues that would have to be addressed if the same happened to the United Kingdom. There are two fundamental differences. The first is that U.K. nuclear weapons are all based in Scotland: it is as if the Soviet Union's arsenal had been deployed only in Ukraine, with no weapons based on Russian territory and with little prospect for relocating them there. The implication is that the disarmament of Scotland entailing the removal of Trident and its warheads from Scottish territory (akin to what happened in Ukraine, Kazakhstan, and Belarus) would be tantamount to disarmament by the United Kingdom if Trident could not be relocated. In this respect, the stakes would be much higher for London than they were for Moscow.

The second difference is that Scotland has a developed capitalist economy with substantial natural and human resources, and well-established administrative, legal and educational systems. It would also gain independence when already in possession of many of the attributes of a state as a result of devolution of most areas of domestic policy. There would therefore be nothing approaching the wrenching social, political and economic changes that had to take place in Ukraine, Russia and other parts of the former Soviet Union, and the challenge of building a new state would be much less formidable. In this respect, the security risks arising from internal disorder and misadministration would probably not arise, and the international stakes would be lower. In addition, the U.K. nuclear force and its associated infrastructure are much smaller than their Soviet counterparts.

The key political question is whether a Scottish government, post-referendum but prior to a final recognition of sovereignty, could evict Trident when it came to the crunch. Before considering this issue, it is necessary to examine how the NPT would bear upon the fragmentation of the United Kingdom.

The NPT and the Breakup of the United Kingdom

The SNP has vowed to bring Scotland into the NPT as a non-nuclear weapon state. There is no reason to doubt this intention, nor that it would be put into effect by whichever parties were to form a post-independence Scottish government. Possession of nuclear weapons would have no political or military utility to a Scottish state. Furthermore, it would have no means of manufacturing warheads (all relevant facilities are in England), and the seizure and operation of Trident would be impossible to organize. The nuclear force in Scotland does not consist of ICBMs in silos like those deployed in Ukraine and Kazakhstan: the U.K. Navy could simply sail the submarines out of Scottish waters if there were any risk of seizure. As a result, we cannot imagine Scotland following the example of Ukraine and using the threat of appropriation to gain concessions from its neighbor and other states.

So an independent Scotland would honor its pledge to join the NPT as a non-nuclear weapon state. Implementing that pledge would not be problematic. All but two nuclear facilities in Scotland are currently under international safeguards. The two exceptions are the Chapelcross reactors, which are being used for tritium production, and the Vulcan submarine reactor test facility at Dounreay. As the Chapelcross reactors date from the 1950s and will have to close soon, they are unlikely to be relevant. The Vulcan facility creates greater complications, which we have addressed elsewhere, largely because it serves a non-explosive military purpose whose exclusion from safeguards is permissible in principle but frowned upon in practice.²⁴ Suffice it to say that those complications are unlikely to be so severe as to obstruct the acceptance of Scotland into the NPT as an non-nuclear weapon state under full-scope safeguards.

The more interesting question concerns the status of the rest of the United Kingdom (rU.K.) under the NPT.²⁵ The United Kingdom is an acknowledged NWS party to the NPT, but rU.K. would have no automatic legal right of succession to that status. Russian succession to the equivalent status of the Soviet Union was essentially a political decision taken by the United States and other

states for pragmatic reasons during the upheavals of December 1991. Our expectation is that the same decision would be reached in the case of rU.K., but it is not inevitable. It could be more controversial for two reasons. One is that Russian succession to NWS status followed a political rather than a legal judgment that it should succeed to the permanent seat assigned to the Soviet Union on the UN Security Council (UNSC).²⁶ In political practice, the acts of succeeding to the Soviet positions in the UNSC and NPT were linked. Would rU.K. similarly succeed to U.K. permanent membership of the UN Security Council? Again this outcome seems likely, although there could be no automaticity. Depending on the circumstances in which the breakup of the United Kingdom occurred, its succession rights might be contested by other contenders to permanent membership and by any who might see an opportunity to push for UN reform.

The second potential source of controversy is that acceptance of a claim by rU.K. to NWS status would create a situation that has no precedent: a nuclear-armed state whose entire nuclear arsenal is based outside its territory. Although not necessarily a dangerous precedent, it would certainly cause discomfort. NPT States Parties would be particularly concerned to ensure that the Article I injunction that there should be no transfer whatsoever of control over the nuclear weapons to a Scottish government was strictly honored.

Trident after Scottish Independence

Assuming Scotland pursued its aim of becoming an NNWS Party to the NPT and rU.K. succeeded to the position of the United Kingdom under the treaty, what might be the fate of the U.K. nuclear deterrent after Scotland had asserted independence? A central conclusion of this study is that the government in Edinburgh could not impose nuclear disarmament on the government in London. But nor could the government in London impose Trident and its bases on the government in Edinburgh. Both would be driven to find a mutually acceptable solution. Why this conclusion?

Edinburgh could not impose disarmament on London because it would thereby jeopardize other even more vital interests. A Scottish government would desperately need to achieve two objectives in the immediate aftermath of a declaration of independence. Firstly, it would need to negotiate a favorable economic settlement with London covering a range of issues, including North Sea oil revenues,

pensions, and the division of the U.K. national debt. Without that settlement, there could be little hope of macro-economic stability and economic development. Secondly, it would need international recognition, and membership of the European Union (EU) above all else.

The rights of an independent Scotland to EU membership have already been the subject of much political and academic debate.²⁷ There are two opposed positions. One is that Scotland would have the same rights of entry to the EU as rU.K., since both would be successor states of the United Kingdom. Understandably popular within the SNP, this opinion rests on the claim that the United Kingdom would lose its former identity if Scotland left the union since the United Kingdom was essentially formed by the Act of Union of 1707 which brought Scotland together with England and Wales. A departure by Scotland from the union would dissolve the state that is the United Kingdom, giving each emerging state equal rights to succession under international law. This assertion is reinforced by the argument that Scotland is already an integral part of the EU and therefore cannot be expelled from it. Furthermore, Scotland is already subject to European Law and fully satisfies the “Copenhagen Criteria” by which the fitness of states in Central and Eastern Europe to join the EU is currently being assessed.

The alternative position is that a Scottish declaration of independence would constitute a secession from an established state whose identity would survive intact (being much the more populous and powerful part of the Union with the same capital as the United Kingdom). That being the case, Scotland would have to begin from a “clean slate” when applying for membership of international organizations. This would mean going to the back of a long queue of states vying for entry to the EU. Existing members would also favor this interpretation, the argument goes, out of concern that other regions might follow Scotland’s example and bid for independence if they knew that EU membership would be open to them. Several EU member states (Belgium, Italy, Spain, and even France and Germany) have reason to fear separatist movements. They all have strong reasons for upholding the unity of fellow member states.

In our opinion, which is quite widely shared, neither position holds water. There is no precedent for a region of an EU member state bidding for membership after a declaration of independence, and the Treaty of Rome does not anticipate this possibility. The response will only be

decided upon if and when such an event happens. We share Robert Lane’s opinion:

Independence in Europe for Scotland (and for England) can be brought about only if action at the national level proceeds concurrently with action at the [EU] level, thus producing, at the end of the day, an agreed result which necessarily includes the concurrence of the Community institutions and all member states. A Scotland bent on independence grounded in the clear democratic support of the Scottish people would create a moral and, given the international law principle of self-determination, probably a legal obligation for all member states to negotiate in good faith in order to produce such a result, *but this solution lies essentially within the domain of politics, not law.*²⁸ (emphasis added)

It follows that EU member states would be inclined to accept Scotland’s application for membership, but their acceptance would be contingent *inter alia* upon Scotland and rU.K. reaching a settlement governing their future social, economic and military relations in whose durability there could be confidence. That settlement would inevitably have to cover their nuclear relations. The one outcome they could not tolerate would be a fragmented United Kingdom, whose emergent states were at loggerheads with one another on vital issues and probably unstable as a result. So they would probably use the bait of EU membership to push for an agreement between Scotland and rU.K..

Reaching that agreement would be enormously difficult if Edinburgh was intent on expelling Trident against the will of London. The Scottish government would therefore be faced with a choice (assuming rU.K. wished to maintain the nuclear deterrent): accede to the basing of Trident in the Clyde, albeit for a fixed period of time that might be negotiated (see below); or, in all probability, sacrifice its early membership of the EU. The corollary is that the need for London to gain Scottish acceptance of Trident would compel it to promote wide international recognition for Scotland, including EU membership. The irony is that, far from being the liability that it is painted to be, Trident could provide the Scottish nationalists with their most reliable entry ticket to the EU and other organizations.

Why do we also argue that London could not impose Trident on an unwilling Scotland? Because it is implausible that Trident could be operated without the full and ungrudging cooperation of the Scottish state. We noted in the earlier discussion of devolution that the cooperation of numerous public bodies in Scotland was already required to maintain the nuclear deterrent. The level of dependence on Scottish assistance would be greater still if London were dealing with an independent state. For one thing, a high proportion of the naval personnel on Royal Navy submarines (and almost all the civilian personnel at the base) would probably hold Scottish citizenship.²⁹ Ground, sea and air forces based in Scotland would also play an essential role in protecting Faslane and Coulport, and the approaches to them.

Given this inevitable interdependence, it would be difficult to envisage continued basing of Trident (and maintenance of other key military facilities, such as the naval gunnery test site at Cape Wrath) in an independent Scotland unless the two states were committed to a deep level of defense cooperation. At the very least, such cooperation would be likely to involve joint NATO membership. It might even require that some identifiably “Scottish” military capabilities remained part of the U.K. armed forces even after independence.³⁰

Establishing a Framework for Basing Trident in an Independent Scotland

Conceding to the basing of Trident in the Clyde would be a bitter pill for the SNP to swallow, as the party has cited it as the ultimate symbol of English disdain for Scottish interests for so many years. Politically, it could be a step too far for the SNP. But it is a step that is conceivable if the gains in other fields were substantial enough. There is also a precedent in British politics for a u-turn on nuclear weapon policy—the Labour Party’s pragmatic abandonment of unilateral disarmament when it faced up to the electoral damage inflicted by this policy in the 1983 and 1987 general elections. Indeed, the SNP has already indicated some flexibility on Trident in its recent statements. In its 1997 election manifesto, for instance, that statement “the SNP have a long-standing objection to nuclear weapons,” was followed by a pledge that “we will negotiate a *phased* but complete withdrawal of Trident from the Clyde” (author’s emphasis). This phrasing represented a departure from the immediate withdrawal demanded in previous manifestos.

However, basing Trident in an independent Scotland could also be regarded with trepidation south of the border. The government and political parties in England would need reassurance that Scottish government support for Trident would be unequivocal, that the highest standards of safety would be sustained, and that the environs of the bases would be well protected along with their supplies and services. Both sides would need guarantees for the situation to be at all palatable.

In our view, the continued deployment of Trident in Scotland would have to rest upon a three-tiered commitment to cooperate. It would entail firstly an expression of political understanding between Scotland and rU.K., possibly entailing a joint statement of the fundamental principles and norms that would guide relations between the two states in security and other fields.

Secondly, it would entail a framework treaty on nuclear weapons, establishing the principles and norms governing rU.K. and Scottish nuclear policies and the stationing of rU.K. nuclear weapons on Scottish territory. Such a Treaty might cover:

- a joint commitment to the NPT, CTBT and other international treaty goals and undertakings;
- provision by rU.K. of positive and negative security guarantees to Scotland (they would be automatic if both were NATO members);
- commitment that Trident missiles would not be fired within Scottish territorial waters without Scottish consent (a concession previously granted by the United States to the United Kingdom when U.S. ballistic missile submarines were based in Scotland);
- principles governing the use of approach waters to the nuclear bases and the transport of nuclear warheads to and from the bases;
- procedures for consultation between the Scottish and rU.K. governments on all matters other than the detailed operation of, and command and control over, the nuclear deterrent;
- principles governing the cooperation between Scottish and rU.K. police, security forces, and intelligence agencies when providing protection for the Trident bases;
- principles guiding the economic relations pertaining to Trident and its bases.

Thirdly, the commitment to cooperate would entail a military base agreement identifying the bases and their facilities and setting out the rights, duties, privileges, and

powers of the respective parties in and around them. This could be modeled on the NATO Status of Forces agreements that are already in force in the United Kingdom and other parts of Europe. We reject as impractical and politically unacceptable the option of creating a sovereign base area under rU.K. jurisdiction encompassing Coulport and Faslane and their approaches. Guantanamo in Cuba and Akrotiri in Cyprus, the only such areas remaining in the world, are relics of a previous age. Leasing is now the standard international practice.³¹

The framework treaty and basing agreement could give an open-ended commitment for the basing of Trident in the Clyde, or could commit the parties to its phase-out. A possible compromise (which would help to assuage elements of the anti-nuclear lobby in the SNP) would be to agree to a fixed term lease followed by an open-ended review leading to either extension or phase-out. However, rU.K. might be wary of any agreement that allowed Scotland to achieve its main objective—an economic settlement and secure EU membership—too easily, thereby removing disincentives to the subsequent expulsion of Trident. The London government might therefore insist on a time period (perhaps 15-20 years) that did not immediately plunge it into all the uncertainties involved in relocation. Such a long lease would not be easy for many in Scotland to swallow. But they could at least take comfort from the acceptance that the basing could only be extended with the consent of the Scottish government.

The Joint Disarmament Option

It has been assumed hitherto that the United Kingdom will remain wedded to nuclear deterrence. The possibility that it will choose to abandon its nuclear arms cannot be ruled out. Numerous factors could precipitate such a decision, including traumatic events (accidents or conflicts), escalating costs (perhaps as a result of replacement needs), radical domestic political change, and more systemic factors such as diminishing threats, progress in arms control, and technological innovation (primarily missile defense). Indeed, the Strategic Defence Review of 1998 by the Labour government can be seen as a deliberate attempt to furnish U.K. defense policy with two doors—one leading still to deterrence, the other opening to disarmament. The subsequent reduction of warhead numbers by the government and its active promotion of disarmament-related treaties support this interpretation. Nevertheless, its commitment to nuclear deterrence has probably been strengthened by the events of September 11, 2001, and the lack

of progress in curbing nuclear proliferation in South Asia and the Middle East, among other recent developments.

Should the U.K. government decide to go through the disarmament door, whether before or during the possible achievement of Scottish independence, the issues raised between London and Edinburgh would be comparatively straightforward and amenable to solution. Who would pay, where would the decommissioning take place, what would happen to the materials and wastes—these would be the principal questions. Internationally, such a move could have great political and strategic significance, and the question of how the United Kingdom could unhitch itself from its NWS status under the NPT would have to be addressed. But these are questions beyond the scope of this article.

NATO and the United States

There is one other set of issues that deserves brief mention: Scottish and rU.K. relations with NATO (assuming it still existed) and the United States. The United Kingdom has an especially important role within NATO and a close relationship with the United States, partly due to its nuclear history. The U.K. nuclear force is “made available” to NATO, and the U.S.-U.K. Mutual Defense Agreement of 1957-58 has enabled various technological and operational ties to develop between the U.S. and U.K. nuclear programs. Any disturbance of Trident basing in Scotland would therefore have implications for both NATO and the United States.

SNP policy, stemming largely from its opposition to nuclear weapons, has been to take Scotland out of NATO. This stance has been changing: SNP leaders have been trying to edge it towards acceptance of NATO membership on the Norwegian model. Such membership would encompass a refusal to allow nuclear weapons on its territory. How a Scottish government could persuade NATO to extend an invitation to join its ranks when the same government was simultaneously bent on evicting a NATO nuclear deterrent force is a question to which the SNP currently appears to have no answer.

Membership of NATO would require active U.S. support. Although the U.K. nuclear deterrent may have lost some of its significance in U.S. eyes since the end of the Cold War, it would probably look askance at any Scottish move to upset the longstanding transatlantic nuclear relationship and to force the United Kingdom to disarm against its will. The U.S. government would no doubt join EU member states in pressing a Scottish government to reach

an accommodation with London, probably involving an extension of basing rights, especially if Trident still seemed to serve rU.K. and NATO strategic interests.

CONCLUSION: DEVOLVING, FRAGMENTING AND COLLAPSING STATES

Let us be clear: we are not arguing that the U.K. nuclear deterrent is in crisis. It is quite likely—some would say highly probable—that the U.K. government will operate Trident out of Faslane and Coulport until the end of its operational life, or until it decides to dispense with it, without being seriously disturbed by the “Scottish question.” Our purpose has been to draw attention to a set of problems that will require careful management, to point out complexities that political parties and administrations tend to overlook, and to provide some prior appreciation of what would be entailed if this nuclear weapon state did break apart. Even if a break-up did happen, we are reasonably optimistic that it could be managed in a peaceful and responsible fashion without posing significant threats to regional or global security. It would not be an event having anything approaching the repercussions of the collapse of the Soviet Union.

There is a more general conclusion that might be drawn from our study: it can no longer be assumed that nuclear armed states will forever be stable entities. Besides the former Soviet Union and the United Kingdom, the unity, authority and reliability of the Pakistani state have recently been in the spotlight, and questions will continue to be asked about the future stability of the Indian and Chinese states, in both of which there are centrifugal forces at play. The inquiry could be extended to Israel, as a state possessing nuclear weapons which is undergoing a kind of fragmentation as Palestinians seek more autonomy, and to Iraq and North Korea as states with WMD capabilities whose future internal governance—and indeed very existence within current borders—is very much in question. The nuclear-armed powers in which there currently appears to be *no* risk of internal upheaval or fragmentation (France and the United States) are in a minority, not a majority. So there are general issues here that demand more extensive study than they have received to date.

We concluded our recent book on this issue with a post-script drawing some broad lessons from the examples of the former Soviet Union and the United Kingdom and from imagined circumstances in other states. It is worth summarizing those lessons here.

- The term “break-up” is usually used to describe the fate of the Soviet Union. In fact, three “changes of form” can occur in the governance of a nuclear-armed state. One is devolution, when regions of a state gain greater constitutional autonomy without depriving the political center of its monopoly of defense and foreign policy. A second is state fragmentation when new sovereign entities emerge out of a single state. A third is state collapse, when the institutions and processes that brought and held a state and society together no longer function effectively. Each change of form has its own implications and gives rise to its own particular risks. Obviously, the greatest dangers attend some combination of state fragmentation and collapse. One should add that problems of governance of nuclear-armed states do not only attend a “change of form”: disarray, corruption, and criminality within an established state may also give rise to huge difficulties.

- Each devolution, fragmentation, and/or collapse of a nuclear-armed state will be *sui generis* and will need to be dealt with in its own special way. What lends our case its uniqueness is that the entire U.K. nuclear force is based in the part of the country (Scotland) that has a strong independence movement that is committed to removing the nuclear force from its territory. In addition, the nuclear force cannot be easily redeployed to the part of the country (England) that would have the greatest desire to inherit NWS status. Other sources of uniqueness also derive from the distinctive history of the United Kingdom and the peculiar nature of its polity, its membership of the EU and NATO, and its close nuclear relationship with the United States.

- The physical scale, nature, quality, and distribution of nuclear assets matter. The single U.K. delivery system with fewer than two hundred warheads contrasts with the massive and varied arsenal of weapons deployed by the Soviet Union over wide areas. Furthermore, U.K. nuclear infrastructure is in comparatively good repair. In both states, however, warhead development and production has been concentrated within the dominant political region (England and Russia). This conjunction of the locations of political power and technological capability strongly influences the choice of successor state among other things. If core technological capabilities were otherwise distributed, outcomes could be more problematic.

• The “maturity” of political and economic institutions within fragmenting states matters. Democracy has deep roots in Scotland as in other parts of the United Kingdom, the rule of law is thoroughly established, economic performance is strong if uneven, there is an extensive regulatory apparatus, and the United Kingdom sits today in a region of comparative peace and stability. There would probably be more social and institutional continuity than discontinuity if the United Kingdom did fall apart. The systemic upheavals experienced by the Soviet Union and all its parts, upheavals which created various security risks (such as the leakage of nuclear materials and expertise to state and non-state actors) are not in prospect in the United Kingdom.

• The framework of international law has great importance in providing clarity and predictability in these circumstances, as well as a starting point for framing international responses. There would be greater uncertainty and thus insecurity without the NPT and its safeguards system. The NPT is therefore important to the management of dramatic change within state structures in addition to the management of relations between states.

• The collapse of the nuclear-armed Soviet Union was often discussed in apocalyptic terms in the early 1990s. In retrospect, the presence of nuclear weapons may have helped rather than hindered the establishment of stable relations among the new states. So high were the stakes that they had to cooperate, the strong had to cut deals with the weak, and the United States and other external powers felt obliged to engage constructively to protect their own security interests. The same would probably apply in our case: Scotland and rU.K. would be forced to settle their differences and immediately to place their relations in a cooperative framework. However, there are circumstances, especially if states were fragmenting *and* collapsing, in which the presence of nuclear weapons and capabilities would be very dangerous and the external capacity to influence events quite limited. Furthermore, the Soviet example shows that short-term gains in state-building and inter-state relations can be offset by long-lasting risks if the new states lack the will or capacity to manage their technological or material inheritances in the interest of global non-proliferation.

Overall, the prospect of instability in nuclear-armed states should increase the determination to uphold non-proliferation and disarmament norms. It should also encourage wider questioning of the robustness of the policies and practices of such states were their internal cohesion to diminish.

¹ The authors are grateful to the Joseph Rowntree Charitable Trust for financial support which made possible the research upon which this article is based. The order in which the authors' names are cited here implies no seniority in the article's preparation.

² Malcolm Chalmers and William Walker, *Uncharted Waters: The UK, Nuclear Weapons and The Scottish Question* (Tuckwell Press: East Linton, 2001).

³ Among the huge literature on the political evolution of the United Kingdom, good recent accounts are provided by Norman Davies, *The Isles: A History* (London: Macmillan, 1999) and Linda Colley, *Britons: Forging the Nation, 1707-1837* (Vintage Press: London, 1992).

⁴ On the nature and rise of Scottish nationalism, see Michael Lynch, *Scotland: A New History* (Pimlico: London, 1992), Christopher Harvie, *Scotland and Nationalism* (London: Routledge, 1998) and Alice Brown, David McCrone and Lindsay Paterson, *Politics and Society in Scotland* (London: Macmillan, 1998).

⁵ As many have pointed out, the lack of an English Parliament may increasingly lead to a perception that English interests, and English regional interests, are being *under*-represented just as Scottish, Welsh and Northern Irish interests are being *over*-represented at the U.K. level. Devolution is thus raising big questions about the future governance of England as an entity and within the union.

⁶ Elections to the Scottish Parliament are held every four years (129 MSPs, or Members of the Scottish Parliament, are returned) at a fixed time. The Scottish electorate continues to elect 72 MPs to the Westminster Parliament. The General Elections to the Westminster Parliament have to occur within five years of each other, but the Prime Minister can choose to 'go to the country' at any time within that five-year period. In the 1999 election to the Scottish Parliament, using a system based on proportional 'top-ups' from party lists, Labour won 38.8 percent of the popular vote giving it 55 out of 129 seats (or 43 percent of the total). Lacking a majority, it was forced to form a coalition government with the Liberal Democrat Party which had 17 seats (the SNP and the Conservative Party had 35 and 19 seats respectively). In the 2001 first-past-the-post election to the U.K. Parliament in Westminster, by contrast, Labour won 40.7 percent of the popular vote, giving it 413 seats out of 659 (or 63 percent of the total), an overall majority of 167 seats.

⁷ See Tom Nairn, *After Britain: New Labour and the Return of Scotland* (London: Granta, 2000) and Alan Taylor, ed., *What a State! Is Devolution for Scotland the End of Britain?* (London: HarperCollins, 2000). Andrew Marr, now the BBC's Chief Political Commentator, concluded a recent book by expressing his "profound belief in the likelihood of the British Union dissolving within a decade." Andrew Marr, *The Day Britain Died* (London: Profile Books, 2000), p. 245.

⁸ "Basing of US Polaris submarines in Northern UK: Memorandum by the Admiralty, 16 June 1960," ADM 27203, Public Records Office, Kew, London. This decision was not without controversy, and was initially strongly opposed by then U.K. Prime Minister Harold Macmillan. See Chalmers and Walker *Uncharted Waters*, pp. 12-17.

⁹ For the history of the U.K. nuclear force, see Margaret Gowing, *Britain and Atomic Energy 1939-1945* (London: Macmillan, 1964); Margaret Gowing, *Independence and Deterrence* (London: Macmillan, 1974); Andrew Pierre, *Nuclear Politics: The British Experience with an Independent Strategic Force 1939-1970* (Oxford: Oxford University Press, 1972); Lawrence Freedman, *Britain and Nuclear Weapons* (London: Macmillan, 1980); John Simpson, *The Independent Nuclear State* (London: Macmillan, 1986); Ian Clark and Nicholas Wheeler, *The British Origins of Nuclear Strategy 1945-1955* (Oxford:

Clarendon Press, 1989); Ian Clark, *Nuclear Diplomacy and the Special Relationship: Britain's Deterrent and America 1957-1962* (Oxford: Clarendon Press, 1994); Robert Paterson, *Britain's Strategic Nuclear Deterrent: From Before the V-Bomber to Beyond Trident* (London: Frank Cass, 1997).

¹⁰ For further discussion of the Polaris programme, see John Simpson, "Lessons of the British Polaris Project: An Organisational History," *Royal United Services Institute Journal* (March 1969), pp. 46-50; Peter Nailor, *The Nassau Connection: The Organisation and Management of the British Polaris Project* (London: HMSO, 1988).

¹¹ Another possibility would be Falmouth in Cornwall. Yet its exit routes provide poor protection from anti-submarine surveillance, the available locations are exposed to southerly to westerly gales, it is in a developed tourist area, and local topography would make it a very expensive site to develop. As a last resort, the option of permanently basing the U.K. deterrent in the United States or France might be considered, and might even appear attractive on cost grounds. Even if the prospective host nation were willing to accept such an arrangement, however, it would be hard for the United Kingdom to accept the level of dependence that foreign basing would imply, especially in the humiliating circumstances of a precipitate expulsion from Scotland.

¹² The scope for relocating the nine Faslane-based submarines would be constrained by restrictions (imposed for reasons of safety) on the minimum distances that are allowed between Trident and other ships, as well as limits on the weapons movements of other ships when stationed near ballistic missile submarines. Because of the proximity of large areas of housing (Devonport is part of the Plymouth conurbation), the government would also have to overcome safety objections to the use of existing dockyard facilities for the operating base.

¹³ The proximity of medium-size towns (Milford Haven and Pembroke) could provide a source for civilian personnel, as well as providing possible locations for housing naval personnel. Milford Haven was rejected in 1963 because of the risks involved in locating explosives near what was then a major oil storage and transportation port. It remains the case that refineries (now operated by Texaco and TotalFinaElf) would have to closer if a new submarine base were to be located here.

¹⁴ The Scottish Executive is the administrative arm of the Scottish Parliament. The U.K. government insisted that the term "government" should not be used to describe this administrative capability. The head of the Scottish Executive is also called the First Minister rather than the Prime Minister. Although lacking sovereignty, the Scottish Executive has many of the attributes of a government in a parliamentary democracy including ministers appointed to identified departments.

¹⁵ Scotland Act 1998, Schedule 5, Part I, Paragraph 9 (1).

¹⁶ These powers are defined in Section 35 of the Scotland Act. Only in regard to the amendment of the Scotland Act itself does the U.K. Government additionally retain such powers.

¹⁷ Scotland Act 1998, Schedule 5, Sections H2, D4 and E5.

¹⁸ The Defence Concordat can be found on <http://www.scotland.gov.uk/concordats>.

¹⁹ In 1999, protests against Trident resulted in the famous case when three members of Trident Ploughshares gained access to a test facility and were charged in a local court for having caused malicious damage. The Sheriff dismissed the charges on the unusual grounds that, as nuclear weapons had

been pronounced illegal by the International Court of Justice in its 1996 Advisory Opinion, the defendants were not committing a crime when taking actions against illegal activity. The decision was subsequently referred to High Court of Justiciary in Edinburgh where three judges ruled that Sheriff Gimblett had interpreted the ICJ Advisory Opinion and its implications for the United Kingdom incorrectly.

²⁰ The SNP is well aware of the failure of the independence movement in Quebec to win referenda despite its success in parliamentary elections.

²¹ The U.K. Trident system is intended to perform "sub-strategic" or tactical as well as strategic roles. On ground-penetrating nuclear weapons, see Martin Butcher, "New Nuclear Weapons and the War on Terrorism," Physicians for Social Responsibility, Washington, DC, November 2001.

²² An extended discussion of the Trident replacement timetable can be found in Malcolm Chalmers and William Walker, *Uncharted Waters*, Appendix B.

²³ It is also claimed that the Trident submarines are submitted to less physical stress and strain than their Polaris predecessors in the post-Cold War operational environment.

²⁴ See Chalmers and Walker, *Uncharted Waters*, pp. 136-137 and 188-189.

²⁵ The rest of the United Kingdom would probably claim and retain the right to continue calling itself the United Kingdom. However, a distinction has been made here, in the interest of clarity, between today's United Kingdom and the reduced state that would succeed it. Although clumsy, rU.K. (pronounced R-U-K) seems the best available title. Its usage is becoming widespread in literature about Scottish independence.

²⁶ See Yahuda Blum, "Russia Takes Over the Soviet Union's Seat at the United Nations," *European Journal of International Law* (1992), pp. 354-361, and Edwin Williamson and John Osborn, "A US Perspective on Treaty Succession and Related Issues in the Wake of the Breakup of the USSR and Yugoslavia," *Virginia Journal of International Law* 33 (1993), pp. 261-274.

²⁷ See, for instance, Scottish Centre for Economic and Social Research (SCESR), *Scotland's Government—the Transition to Independence* (Peterhead: SCESR, 1996); Matthew Happold, *Scotland Europa: Independence in Europe?*, Centre for European Reform Working Paper, April 1999; David Sinclair, *Issues around Scottish Independence*, The Constitution Unit, University College London, September 1999; Neil MacCormick, "Is there a constitutional path to Scottish independence?" *Parliamentary Affairs* 53 (2000), pp. 721-736; S. Schieren, "Independence in Europe: Scotland's Choice?" *Scottish Affairs* 31 (Spring 2000), pp. 111-127.

²⁸ Robert Lane, "'Scotland in Europe': an independent Scotland and the European Community" in W. Finnie, C. Himsworth and N. Walker (eds.), *Edinburgh Essays in Public Law* (Edinburgh University Press: Edinburgh, 1991), pp. 154-155.

²⁹ There is a precedent for such policies. Many Irish citizens have served with distinction in the U.K. armed forces (and, at times, on Royal Navy submarines). Dual citizenship may also be a possibility.

³⁰ In keeping with its longstanding martial traditions, Scotland is disproportionately represented in the U.K. Army, with 6 of its 40 regiments being identifiably Scottish, recruiting mainly from Scotland.

³¹ On military base agreements, see John Woodliffe, *The Peacetime Use of Foreign Military Installations under Modern International Law* (Dordrecht: Martinus Nijhoff Publishers, 1992).