

### 3 Political collective

#### Scotland's regional nation of presence

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Only Scotland's population should decide on its policies. Political self-rule by the population of Scotland was the main reason for voting in favour of Scotland's secession in the referendum. However, who should be able to participate in Scotland's national politics? As the song *Son I Voted Yes* by Stanley Odd puts it, simple geography should decide this question of political participation, e.g. foot voting. In the Scottish political system, and especially in the quest for autonomy, the typical demarcation of the collective at the regional level is radicalised. First and foremost, Scotland is a regional nation of presence.

Sociologically, the demarcation of the collective centres on a core process of world society. It is about the development process of function systems. According to Rudolf Stichweh (Stichweh 1988, 2005), function systems only attain their autonomy by succeeding in opening up opportunities for inclusion for an ever-larger proportion of the population. Politics is a function system. It is primarily differentiated in territorial states called polities. Today, almost all are nation-states. In this Chapter, I argue that Scotland's quest for autonomy shows the emergence of a polity through increasing absorption of the population. An increasing proportion of the Scottish population participated in Scottish politics in one way or another. Scotland gradually emerged as a political system in its own right. All this occurred through a radicalisation of the territorial demarcation typical of political inclusion at the level of a region.

On the one hand, the population is included as voters in the performance roles of the political system (e.g. self-rule). On the other hand, the population is included in complementary roles or as a public. Someone might participate as a recipient of the political system in Scotland and, therefore, is included in public role provided for by the welfare-state. In addition, there is the inclusion as a public and in the form of public opinion, for example about what it means to be Scottish. Chapter 3 asks about the possibilities and limits of inclusion in the performance roles of the political system in Scotland. The following Chapters deal with inclusion via the welfare-state of the Scottish political system (Chapter 4) and with inclusion as a public/public opinion (Chapters 5 and 6).

In order to participate in Scotland's national politics, it is not essential to be born in Scotland, to have parents from Scotland or to have distinguished oneself through merit. What counts for Scotland's national inclusion/exclusion today is whether a person is present in Scotland and whether they have their centre of life there.

Based on this diagnosis, in this Chapter, I develop the thesis that the political collective increases national inclusion and exclusion through internal political structures. In the Scottish case, this is through presence within the territorial boundaries (see Roeder 2007, 2014). Like the other function systems, politics—in the case analysed here—creates its collective out of itself by the process of inclusion as well as by the threat of becoming excluded through for example a 'power grab' (Siroky/Cuffe 2015; Cunningham 2014; Wimmer/Cederman/Min 2009; Wimmer/Min 2006). This enables democratic politics to govern itself increasingly precisely through its population, as only those who actually live in the respective polity can be included as a population.

However, how can the definition of the collective on which the Scottish quest for autonomy is based be analysed? Through self-assessments by Scottish nationalists and through the electoral law of Scottish politics. Specifically, I demonstrate the primacy of residence-based inclusion/exclusion by the following four sources:

1. The Scottish National Party (SNP) its campaign for secession
2. Self-assessments of SNP members concerning becoming Scottish
3. Voting eligibility in the secession referendum
4. Recent electoral reforms in Scotland

Self-assessments of autonomy-seeking activists and low-threshold inclusion in Scottish politics illustrate the interpretation of the political collective as a community. Self-rule is demanded for the population settled in Scotland at any given time. In the Scottish political system, and especially in the quest for autonomy, the typical demarcation of the collective at the regional level is radicalised. First and foremost, Scotland is a regional nation of presence.

In contrast, considerations of Scottish citizenship reveal how the national cultural collective, which is to be distinguished from the people, is formed. Access to a hypothetically assumed citizenship in the draft constitutions is not based on presence in Scotland. It depends on a person's ancestry, albeit comparatively inclusive. The final section of the Chapter explains why the territorial demarcation of the Scottish collective was more important than a collective based on ethnicity. The explanation is based on the specific demographics of Scotland.

### 3.1 Voluntarist and residential demarcation

The political collective in the quest for national autonomy is not demarcated by descent but simply geographically, as the song *Son I Voted Yes* by Stanley Odd puts it:

“This isn’t about the colour of skin  
Or where you were born, or who you call kin  
It’s about pure and simple geography” (Stanley Odd 2014)

As paradoxical as it sounds for a secessionist movement, statehood is being sought for those living in a specified territory at any given time. The address of residence demarcates the Scottish collective of political inclusion. In one of the oldest nations in Europe, as the separatists point out, the nation in our day is defined by the people and national history is superseded (cf. Leith, M. S./D. Sim 2020).

An example of this is the Scottish National Party (SNP) advertising, favouring Scottish statehood, as an SNP election manifesto from 1997 shows. At that time, a vote was held on legislative and fiscal devolution. The manifesto promised a Scotland “that doesn’t ask where you’ve come from, but where we are all going together” (Leith 2008: 88). The expected future of the political collective, not the shared national history, is, therefore, the point of reference for belonging or not belonging to the Scottish collective.

At the beginning of the secession campaign, an SNP MP again emphasised this. This was “based on the community [...] rather than it being based on some kind of strange ideal of what it means to be ethnically Scottish” (cited in Hepburn 2015: 4). The MP distinguishes the community from the principle of ethnicity. Being Scottish, therefore, has nothing to do with ethnicity or Scottish descent.

The then First Minister of Scotland, Alex Salmond, comparably campaigned for secession. For example, in his “Declaration of Opportunity”, which Salmond presented one month before the referendum on Scottish secession:

“[T]he declaration we make is a declaration of opportunity, not just for the country but for the people of Scotland. [...] We need to end the desperate situation where we educate so many bright people, only to see them leave Scotland. Our aim will be to ensure as many people as possible can reach the top of their career ladder here in Scotland.” (Salmond 2014)

The future takes centre stage. We are not talking about Scottish history or descent but about competition for people who do not necessarily come from Scotland but who have settled there and should, if possible, remain in Scotland. In order to achieve the latter, according to Salmond, it would be advantageous to base political

decisions on who is affected. According to his logic, those affected by the political situation in Scotland are those who, at a given time, live and work in Scotland:

“It is better for all our futures if decisions about Scotland are taken by the people who care most about Scotland – the people who live and work here.” (Salmond 2014)

People who live in Scotland and see their future there are being addressed. Over the years, this phrase about the Scottish people, i.e. those who live and work in Scotland, has become a guiding principle of the Scottish autonomy endeavour. It does not refer to the Scottish people but to the people in Scotland, not “the Scottish people” but “the people of Scotland”.

First Minister Nicola Sturgeon (2016) used this formula to recall the secession referendum and linked it to the referendum on the United Kingdom’s membership of the European Union: “[T]he big decisions about Scotland—including the decision about our EU membership—should be taken by those who live and work here.” Shared living space takes centre stage.

Ruth Breeze also comes to this conclusion. She examined the election programmes of the four major competing parties in Scotland for the 2010 and 2015 elections to the House of Commons. According to her, “Scottish” in the SNP’s two election manifestos is limited to political institutions such as the Scottish Parliament or the Scottish Executive. It is not used as ‘Scottish people’. In general, the SNP has only half the number of mentions of ‘people’ in the 2010 and 2015 manifestos compared to the other parties, particularly in contrast to Scottish Labour. What stands out in the SNP’s election manifestos, on the other hand, are the geographical references, which are almost twice as frequent at 4.3 per 100 words (2010) and 3.5 per 100 words (2015) (see Breeze 2019: 34–35). These are mostly the personifying and possessive form of “Scotland”, such as in ‘Scotland’s got what it takes’.<sup>1</sup> This illustrates the importance of residential demarcation.

I take a final example from a survey of SNP party members. James Mitchell et al. (2009) asked 7,112 SNP members (2007/2008) what it means to them to be ‘truly Scottish’. The respondents were staunch Scots and separatists: 77.4 % described themselves as “Scottish not British”, 16 % as “more Scottish than British”. Only 11.9 %

1 “Although the SNP also uses combinations such as *people in Scotland* [...], its manifesto notably contains no fewer than 85 examples of the possessive form *Scotland’s*, which only appears 9 times in the Liberal Democrat manifesto, 5 times in the Conservative manifesto and once in the Labour text. [...] Although these differences are small, it does seem that in this particular case, the Liberal Democrat, Labour and Conservative tendency to situate things and people ‘in Scotland,’ just as they might be any other geographical area, contrasts with the SNP representation of Scotland as an entity in its own right, often personified, and often with rights of entitlement over the resources and qualities attributed to it.” (Breeze 2019: 42–43)

favoured 'devolution' (more regional autonomy), but 87.2 % favoured secession (see Mitchell et al., 2009: 73). Arno van der Zwet (2015: 73) has taken up the opinion poll by James Mitchell et al. and worked out the following result: Feeling Scottish was rated by SNP members as the most important criterion for being 'truly Scottish'.

These results show how important it is to SNP members what a person thinks about themselves in terms of their membership of a national social collective. From the point of view of SNP members, self-determined identification with the Scottish nation is the most important criterion for belonging to this nation. On a scale of 1 (unimportant) to 4 (important), this voluntaristic component was assigned the highest relevance with a mean value of 3.73. The appreciation to choose your national identity by yourself is also reflected in the second-placed value of 3.5: the willingness to respect Scottish laws and institutions.

This is followed in third place by the residential community. With a value of 3.2, respondents answered that "[t]o live in Scotland now" is essential to be truly Scottish.

Less critical, on the other hand, are Scottish descent (2.64), being born in Scotland (2.81) or having spent most of your life in Scotland (2.85). The very inclusive language category (English, Gaelic or Scots) is one of the more critical dimensions at 3.01 but does not necessarily indicate ethnic or cultural nationalism (cf. Reeskens/Hooghe 2010).

In order to be Scottish from the perspective of SNP members, the criteria based on individual self-determination, identifying oneself as Scottish and respecting Scottish institutions are the most important. Criteria related to parents (ancestry, place of birth, and socialisation) are therefore less important. In contrast, criteria related to individual choice are more highly valued among SNP members: national self-identification, respect for Scottish institutions and current residence in Scotland.

Nevertheless, it is crucial to distinguish here between voluntarist and residential orientations. From the perspective of SNP respondents, the two most important aspects of being genuinely Scottish are voluntaristic. People decide which nation they belong to and which institutions and laws they defend. Autonomy creates itself out of itself.

Many who see themselves exclusively as Scottish (around a quarter of the population) are committed to Scotland's national self-determination and have spoken out in favour of secession in the referendum and in surveys afterwards (see Curtice 2017: 5). Nevertheless, Scottish nationalism addresses "the people who live and work here". From the assessments of SNP members, it must be concluded that they essentially agree with the residential interpretation of the Scottish collective, provided that the person concerned and living in Scotland wants to see themselves as Scottish: "If you live and work in Scotland, you're a Scot, and if you want to be. [...] You need to want to be part of it." (Interview SNP MSP [L1] in Meer 2015: 1487)

“To be ‘truly’ Scottish, voluntarism is most important to SNP members. However, voluntarism is distinguished from the view that only those who live in Scotland should have a say in Scotland’s politics. Regarding reflecting on who in Scotland can and may make collectively binding decisions, Scotland’s political inclusion is based on the people living in Scotland.

The socio-structural effectiveness of the nation’s voluntarist and residential demarcation is illustrated below using the example of the franchise and its most recent reforms.

### 3.2 Voting rights: “the people who live and work here”

Who could vote for or against the creation of a Scottish state in the referendum on 18 September 2014? It was promised that those who live in Scotland would decide. The Scottish Government justified this orientation towards the principle of residence on the basis of international law and Scotland’s popular sovereignty:

“The franchise [...] most closely reflects residency in Scotland and has been chosen for that reason. The choice of this franchise reflects the internationally accepted principle that the franchise for constitutional referendums should be determined by residency and the Scottish Government’s view that sovereignty lies with the people of Scotland.” (Scottish Government 2012b: 20; zum Vorrang schottischer Volks- statt Parlamentssouveränität Lord Advocate 1953)

However, how important was residential demarcation in the Scottish Independence Referendum (Franchise) Act 2013? This Act governed registration and voting in the secession referendum. The residential demarcation of Scotland is at its heart. Under the Act, anyone who has a residential address in Scotland within the registration period and registers to vote in the referendum in the relevant constituency is entitled to vote. To register, the annual canvass was sent to all households in Scotland by post from 1 October 2013 to 10 March 2014. Anyone who did not receive this invitation to register was not registered or moved to Scotland at a later date was able to register at their constituency office (‘rolling registration’). The registration deadline to be allowed to vote in the secession referendum was 2 September 2014 (see Electoral Commission 2014: §3.13, §4.11). In extreme cases, anyone with a residential address in Scotland on a single day of the registration period (1 October 2013 to 2 September 2014) had the opportunity to register for the referendum on 18 September 2014, provided they met the other criteria.

In addition to residence, there were other restrictions: Minimum age, limitation by eligible citizenship and legal incapacity to vote (2013: §2) of the person in question. Persons entitled to vote must be at least 16 years old on the day of the refer-

endum, 18 September 2014. In addition, the person must have one of the following citizenship: British, Irish, EU, or Commonwealth countries (the latter only applies if the person has a permanent UK residence permit or is exempt from this requirement).

A total of 4.284 million people registered for the secession referendum. This corresponds to around 80 % of the total population of Scotland (Electoral Commission 2014: 4.10). Around 2.6 % of those registered were young people who were eligible to vote in Scotland for the first time due to the lowering of the minimum age from 18 to 16.

### 3.2.1 Comparison with the UK

There are only two similarities between the access conditions of the voting collective in Scotland's secession referendum and the UK's right to vote. Firstly, Scottish-born military and royal personnel were eligible to vote in the secession referendum, regardless of their current residence or location (2,750 eligible voters as of March 2014, see National Records of Scotland 2015).

Secondly, as in UK electoral law, prison inmates were excluded from voting in the secession referendum. How many residents were excluded from the referendum by this legal ineligibility limited to prison inmates? As the Scottish Government's statistics only categorise the prison population by ethnicity and not by citizenship, it is only possible to make an estimate. The ethnic distribution of those imprisoned in Scotland shows that there is only a small population of foreign nationals in prisons (less than 4 % of all inmates Allen/Dempsey 2016: 20). In this respect, many of the average 7,900 prisoners in Scotland in 2013 would have been eligible to vote had they not been excluded by this rule. Prison is an institution of political exclusion in the UK.

In this regard, however, it is essential to recognise the significance of these two commonalities. They only affect a tiny number of people, i.e. a maximum of 11,000 out of a total of 4.283 million who successfully registered to vote in the referendum on Scottish secession (Electoral Commission 2014). Therefore, many Scottish people tended to perceive differences from ordinary voting rights in the United Kingdom. What differences?

Four differences exist in the primary residence-based voting rights of the Scottish secession referendum compared to the right to vote in UK House of Commons elections. All four differences lead to an increase in residential inclusion and exclusion. Importantly, this increase relates to Scotland's political future. Exclusion is increased because voting rights are more closely aligned to a person's place of residence. Inclusion is increased because the minimum age has been lowered, and the number of citizens eligible to vote has been extended.

Firstly, in contrast to the UK House of Commons elections, EU citizens are also eligible to vote in this referendum if they live in Scotland. At the last census (2011), 134,910 people living in Scotland were born within the EU (excluding Ireland and the UK). Estimates of how many of these people were eligible to vote in Scotland as EU citizens totalled around 60,000 (BBC 2012). 94,122 EU citizens eligible to vote were already registered in March 2014 (National Records of Scotland 2015). This highlights the prioritisation of residency over political inclusion through citizenship.

Secondly, the referendum lowered the minimum age from 18 to 16. For the referendum alone, lowering the minimum voting age increased political inclusion in Scotland by around 110,000 people.<sup>2</sup> This was accompanied by more precise residential registration for political inclusion in this referendum. It was more precise than is usual in British electoral law. Usually, the minimum age is not measured by the date of voting and birthday but always by the person's age on 1 December of the following year. Accordingly, anyone who reached the minimum age two and a half months after 18 September 2014 and met the other criteria would also be eligible to vote (see Khadar 2013: 3). In contrast, a more precise electoral register was created and used in the secession referendum. Instead of the year beginning on 1 December, the voting date and birthday were used as the basis for registration about the minimum age. The Young Voter Registration Form, which was sent to households alongside the annual registration form, requested that all 15-year-olds who reached the minimum age of 16 at the time of the referendum on 18 September 2014 be registered. This excluded all those who would have reached the minimum age between 19 September 2014 and 30 November 2014 and would usually be included in UK voting rights (but based on a minimum age of 18 instead of 16).

Thirdly, the referendum considered residential boundaries, as members of the House of Lords were also included to decide Scotland's constitutional future. Unlike the elections to the House of Commons, but like the elections to other vertical levels of decision-making in the UK (local, regional, EU), Lords were entitled to vote in the referendum. However, here, too, the criterion of a residential address in Scotland applied when registering. As of March 2014, 53 Lords were registered to vote in the secession referendum (National Records of Scotland 2015).

Fourthly, British citizens living abroad in the United Kingdom were excluded from Scotland's secession referendum. British citizens who used to live in Scotland were not allowed to vote in the secession referendum. In most countries, citizens living abroad can only vote in national elections (IDEA 2007). However, this difference demonstrates the primarily residential rather than civic inclusion in the Scottish secession referendum. UK electoral law allows British citizens who no longer live in the UK to vote in elections to the House of Commons and the European Parliament.

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2 Around 110,000 people in this age group registered for the secession referendum and it is estimated that 75 % of these young people voted (Electoral Commission 2014: 4.10).

Up to fifteen years after leaving the UK, they may register to vote in the UK in their former constituency. Provided they had previously registered there or had not yet reached the minimum age. The right to vote for British emigrants was introduced in the Representation of the People Act 1985, when it was limited to five years after emigration from the UK, but was extended to 20 years in 1989 and restricted to the current 15 years after emigration in 2000 (cf. White 2016).

This rule also applied to the referendum on the UK's EU membership held on 23 June 2016 (hereafter EU referendum). However, it did not apply to the Scottish secession referendum. There is an essential difference in this regulation regarding the voting rights of British citizens abroad, which is described in more detail below. This again illustrates Scotland's particular path: the closure of political input inclusion related to the Scottish territory and tied to the person's residence.

In contrast, in recent years, there has been a tendency in the United Kingdom to abandon the temporal-spatial restriction of 15 years for elections to the House of Commons. At this highest vertical decision-making level in the United Kingdom, it is demanded and promised by the coalition government in office at the time that the right to vote should be allocated primarily according to citizenship. The right to vote in the United Kingdom should not be linked to a person's residence but to their citizenship. This tendency is evident in the demands of British citizens who live abroad. This refers to those who do not want to accept a time limit on their right to vote in the UK. This demand was included in draft legislation, party manifestos and, finally, in a cross-party working group in Westminster (White 2016: 11-18). The (active) right to vote for British foreigners is justified by their contribution to the United Kingdom simply by being abroad. For example, Geoffrey Clifton-Brown justifies his bill to abolish the time limit by arguing that these British emigrants are "the unofficial ambassadors, trade envoys and representatives for our country around the world" (Clifton-Brown 2014).

A government cabinet draft was recently published to abolish the time limit. It proposes that this "vote for life" should be made available to all British emigrants in their last registered constituency in the UK, regardless of their current place of residence (Cabinet Office 2016: 7; this would currently mean around 5 million additional eligible voters in the UK).

Furthermore, this tendency to strengthen British citizenship vis-à-vis residential demarcation in the United Kingdom is reflected in calls to exclude other citizens from the right to vote in the United Kingdom. For example, in elections to the House of Commons, citizens of the 50+ Commonwealth countries are eligible to vote in the UK if they have permanent residence in the UK. There are calls to abandon these residency-based aspects and grant this right to vote exclusively to British citizens. This residence-based voting right of other Commonwealth citizens is an "outdated relic from Britain's [sic!] Empire and colonial past", according to one MP in the

House of Commons (see Khadar 2013: 6-11; cf. Weinbach 2005a; Weinbach 2005b; Dorling/Tomlinson 2019: Kap. 9).

As seen in the referendum authorisation, the exact opposite is in Scotland. In Scotland's secession referendum, not only were multiple citizenships eligible to vote, but place of residence was the primary criterion for voting eligibility. A person's place of residence mattered. Anyone who could provide proof of a residential address in Scotland by the registration deadline of 2 September 2014 and met the other criteria mentioned (age, citizenship, criminal law) was entitled to vote in the secession referendum. This narrower definition of voting rights based on place of residence was debated in the Scottish Parliament. On behalf of the Scottish Labour Party, Labour MP Elaine Murray tabled the following motion on 18 January 2012:

"That the Parliament notes that for generations Scots have taken up opportunities to work in other parts of the UK and beyond and that many have subsequently returned to Scotland to use the skills and experiences that they have gained elsewhere. [...] Scots living outwith Scotland should be able to register to vote in the independence referendum on the same basis as expatriate UK citizens can vote in UK elections". (Motion S4M-01596)

Unlike Clifton-Brown above, who campaigned in the House of Commons for an extension of voting rights for British emigrants, Murray justified voting rights for Scottish emigrants by assuming that they intended to return (on the discussions about "Let Wallace Vote" at the time, see Ferguson 2014; Miller 2014). Many young people from Scotland would have to leave Scotland temporarily due to their qualifications and career aspirations. As many of these people, according to Murray, are temporary residents abroad, they should be entitled to vote like those currently living in Scotland. As with elections to the House of Commons, British emigrants to Scotland should be allowed to vote until fifteen years after their migration. This is a "once-in-a-lifetime vote" (Scottish Parliament 2004: 5414). It is estimated that including Scottish emigrants would have increased the electorate by over 20 per cent. Estimates ranged from 920,000 (Berry/Berry 2014) to 1.15 million people (Miller 2014). However, the right to vote for British emigrants described above is rarely utilised. From its introduction in 1987 until 2014, an average of 15,990 so-called 'overseas voters' registered in the UK (see White 2016: 25). A new high was reached in the EU referendum. A total of 135,629 'overseas voters' registered for this (based on Electoral Commission 2016). This shows how little widespread the expectation has been in the UK to date to participate in referendums in the UK as a British citizen abroad. Scotland is no exception.

These statistics were not cited in the debate in the Scottish Parliament. Instead, Murray countered that she was implying an ethnic definition of citizenship. However, such an ethnic definition contradicts the view of the governing party in Scot-

land (SNP). The SNP is in favour of a person's place of residence being used to determine whether or not they are allowed to participate in collectively binding decisions. SNP MP Chic Brodie rejected the right to vote for British citizens living abroad, arguing that it only showed that the interests of those living in Scotland were not sufficiently considered. This would lead to more and more emigration unless secession occurred. Similarly, other SNP MPs replied that it was not about identity or citizenship but about the interests of those who actually live in Scotland and contribute through taxes and voting:

“If it was about identity,” asks Kenneth Gibson, “why would the SNP have so many members [...] who were born outside Scotland?” and says it is about the “people who live in Scotland, whether they are Scottish, Pakistani, Indian or Chinese, or English, Welsh or Northern Irish, by birth – the people who pay Scotland’s taxes, who elect the members of the Scottish Parliament and who have chosen to make a life for themselves here – are the most important stakeholders in the wider debate. They must decide Scotland’s future.” (Scottish Parliament 2012: 5424)

Christine Grahame (SNP) objected to Murray’s motion, arguing that democratically interpreted, there should be a “direct connection” between the right to vote and the consequences of voting (policies):

“The democratic principle, as I understand it, is that someone is on the electoral register to vote in various elections in which they are affected by those policies. [...] I cannot follow the argument that people – goodness knows how to define them – who say that they are Scottish but will perhaps never return to Scotland, or have no intention of doing so, should have a vote on the future of this nation and whether or not it is free and independent. That cannot be democratically right in principle alone, if one follows the logic of the argument.” (Scottish Parliament 2012: 5424)

Similarly, Jamie Hepburn (SNP) asks who is a Scot. She believes that this question can only be answered on the day that Scotland has its own citizenship. Independence is the precondition for that. Until that happens, she sees no reason why people living abroad should vote in the referendum. An explicit distinction is made as “a separate matter” between the referendum vote and the criteria that determine who is Scottish:

“Who is a Scot? The only clear and concrete fashion in which we will be able to decide that is when we can grant citizenship. At the moment, we are not Scottish citizens. We can grant citizenship only in the context of independence. I would be quite relaxed at the prospect of people from outwith Scotland demonstrating at that stage their willingness to become Scottish citizens and participate in Scot-

tish Parliament elections. However, that is a separate matter.” (Scottish Parliament 2012: 5421-5422)

Bruce Crawford, cabinet member of the Scottish government, summarises: The Scottish Government agreed that in the secession referendum, “voting rights [...] be based firmly on residency” for two political reasons (Scottish Parliament 2012: 5426). Firstly, practicability argues favouring a primarily residential demarcation of the voting collective, as identifying those entitled to vote is difficult. Against the background of the elections to the Scottish Parliament, a right to vote for Scottish emigrants would mean creating a new electoral register, for which there is no model in the United Kingdom yet (however, see for example the case of France or Italy in IDEA 2007: 29). In contrast to the House of Commons elections, the register would not only have to consider the lowering of the minimum age but also the EU citizens included in the regional parliamentary elections. EU citizens who have had a residential address in Scotland within the last 15 years must be included in the electoral register. Precedents in the United Kingdom and the “internationally accepted principle” also support this primarily residential demarcation of the voting collective in the secession referendum. Crawford speaks here of “constitutional referendums” and includes not only secession referendums as precedents. He cites the referendums on devolution in Scotland (1997) and Wales (2011) as role models, as these referendums also involved a primarily residential demarcation. By the internationally accepted principle, he is referring, in particular, to the residential demarcation in the referendum on the secession of Montenegro.

### 3.2.2 Comparison with other secession referendums

Crawford cannot be entirely agreed with, as there has never been such a radicalisation of residential demarcation in an independence referendum. The UK devolution referendums on Northern Ireland, Wales and Scotland are not precedents as they were not about secession but regional autonomy within an existing state. Furthermore, secession referendums in other democracies have tied voting rights to a minimum period of residence and/or to a single citizenship. In the Scottish secession referendum, these restrictions were minimised. The residential demarcation of the voting register has been tightened to the registration day. A comparison with other secession referendums illustrates the radical nature of the residential demarcation of the voting collective used in the Scottish secession referendum.

**Québec** Citizenship and minimum residency were combined in the Québec secession referendums; for example, the Québec Referendum Act stipulates that the voting collective on the secession of this Canadian province must comply with the Québec Election Act. This provides for Canadian citizenship as a criterion for eligi-

bility to vote (Ziegler/Shaw/Bauböck 2014: 16f.). However, the decisive differences to Scotland are not only the limitation of citizenship but also the limitation of the electorate by the minimum duration of residence and type of residence. Accordingly, only those who have had their primary residence in Québec for at least six months before the referendum are eligible to vote in Québec. For example, students who did not study and live in Québec but had their primary residence with their parents in Québec were eligible to vote. The principal residence is arguably a more accurate residential demarcation than the residential address used in the Scottish secession referendum. However, the exclusion of other citizenships and a minimum period of residence weakened this residential demarcation in the 1995 referendum on Québec's national independence.

**Catalonia** The 2014 referendum on Catalonia's independence also shows a primary difference in residential demarcation from the Scottish secession referendum. This referendum linked the right to vote to a minimum period of residence and a place of residence both within and outside Catalonia. Spanish citizens (minimum age 16) living in Catalonia were eligible to vote, EU citizens only if they had been living in Catalonia for at least one year (non-EU citizens for three years). In addition, Spaniards who previously lived in Catalonia but now live abroad were eligible to vote. Catalans living in the rest of Spain were not allowed to take part in the referendum:

“[A]ccording to the draft bill, apart from regional electors (Spanish citizens ordinarily resident in Catalonia), citizens of other EU states resident in Catalonia for more than a year and registered therein would be eligible to vote, whereas citizens of non-EU states must satisfy a three years registration period from the day they have obtained a residence permit in Catalonia. Catalans residing abroad may vote in the consultation if they register in a voluntary registry. At the same time, Catalans who live and are registered in the rest of Spain will not be able to vote.” (Ziegler/Shaw/Bauböck 2014: 20)

Precisely the opposite of the Scottish secession referendum, the decisive factor for eligibility to vote in this case was an affiliation to Catalonia based on current or former residence. Anyone who lived as a Catalan emigrant in a non-Spanish country was also entitled to vote. This is precisely the ethno-nationalist opposite of what was said in the debate in the Scottish Parliament about the voting rights of people formerly living in Scotland. It was not the residence of the past but only current residence that was the criterion for eligibility to vote in the Scottish secession referendum, and people living abroad were indiscriminately excluded. Scotland's political collective is based on its presence in Scotland, not, as is the case in Catalonia, by the threat of national cultural extinction (cf. Dalle Mulle/Serrano 2019).

**Puerto Rico** In the four ‘plebiscites’ (1967, 1993, 1998, 2012) on the political status of Puerto Rico, which were held in a similar way to a secession referendum, there is also a residential demarcation like the Scottish secession referendum (Ziegler/Shaw/Bauböck 2014: 40). People with US citizenship who live in Puerto Rico are eligible to vote. Unlike the ‘Edinburgh Agreement’ in Scotland, however, a vote in favour of changing Puerto Rico’s political status is not binding. It would require a decision by the US Congress. As this is a national House of Representatives, the residential boundaries only play a subordinate role here. The eligible voters who live in Puerto Rico decide first, followed by the representatives of the state as a whole. State constitutions with the right of secession have similar rules. For example, in the Constitution of the Soviet Union of 1977, the right to secession was linked to the approval of the Supreme Soviet of the USSR (see Harbo 2008: 136). In Scotland, the sequence was reversed. The secession referendum, which was agreed as binding, came about after an agreement had been reached between the regional and national governments (‘Edinburgh Agreement’). A primarily residential Scottish Parliament election also preceded this agreement. The current constitution of Ethiopia contains a comparable provision in Article 39 on the “unconditional right to self-determination, including the right to secession” (see de Villiers 2012: 86).

**Montenegro** Finally, the case of Montenegro: During the discussion on inclusion in the secession referendum, this case is also mentioned in the Scottish regional Parliament. This secession referendum was accompanied and elaborated on, in particular, by the Venice Commission of the Council of Europe. The law on the referendum, which came into force on 1 March 2006, also provided for a primarily residential demarcation of the collective living in Montenegro, but this was primarily for ethnic-nationalist reasons. The incumbent Montenegrin Prime Minister Milo Đukanović pursued ethnic nationalism. He celebrated, for example, the “separate Montenegrin Orthodox Church, the distinct Montenegrin language and orthography and the ‘genuine Montenegrin’ (Dukljan) Academy of Science” as national cultural institutions (Jovanovic 2008: 139).

Although eligibility to vote in the referendum in Montenegro was linked to residential communities within the affected region, there was a vital peculiarity here. Only those who had a residential address in Montenegro for 24 months before the day of the referendum were eligible to vote (see OSCE 2006: 8). The minimum period of residence included thousands of Serbian citizens in the referendum who had resided in Montenegro for this period. More crucial, however, was who was excluded. According to Jovanovic’s estimate, this residential demarcation excluded 260,000 Montenegrins whose principal place of residence was registered in Serbia and who mostly, often because of labour migration, had no interest in Montenegro’s statehood (Jovanovic 2008).

A qualified majority of 55 % had to be achieved for secession. 88 % of those eligible to vote (484,717 people) voted, and 2,300 votes exceeded the qualified majority. At 55.5 %, a narrow majority voted for Montenegro's statehood. It remains doubtful that a less restrictive voting register (e.g. without a two-year minimum period of residence in Montenegro) would have led to this result and, thus, to secession.

### 3.2.3 Concluding the comparisons

A comparison with the referendums in Montenegro, Québec and Catalonia shows how radically democratic the Scottish electoral register was designed. In the referendum on Scottish statehood, voting rights were not tied to a minimum period of residence. In contrast to voting rights in the United Kingdom and other secession referendums, the Scottish Independence Referendum (Franchise) Act 2013 increased residence-based inclusion and exclusion. In the referendum held in Scotland in 2014, only those with a residential address in Scotland were eligible to vote, aside from the other criteria. Those who currently live in Scotland should vote on Scotland's future. Scotland's referendum was radical. It was more accurate in terms of timing than the right to vote in the EU referendum (2016) and the right to vote in the UK because inclusion was linked to a person's birthday rather than their birth year. At the same time, it was also more accurate than the right to vote in Montenegro's secession referendum, where there was still a minimum period of residence.

## 3.3 Radicalising the regional inclusion and exclusion

Following the referendum held in 2014, the voting register for elections in Scotland was adopted, and the minimum age was lowered to 16 accordingly. Subsequently, a new proposal for electoral reform in Scotland was implemented in July 2020—i.e. the *Scottish Elections (Franchise and Representation) Act 2020*. I want to present this latest electoral law regarding inclusion and exclusion. It has radicalised the residential inclusion and exclusion in Scotland's political participation.

The basis of this reform proposal was laid by the union campaign's Vow, published on the front page of the Daily Record on 16 September 2014, as outlined above. In it, the Scottish people were promised that regional autonomy in the United Kingdom would be extended if they voted to remain in this country in the referendum. After most of the population voted to remain in the United Kingdom on 18 September 2014, the Smith Commission developed proposals to extend Scotland's regional autonomy in the following months. This led to the Scotland Act (2016), enacted on 23 March 2016. With this legislative package, the Scottish Parliament now also has the opportunity to change the electoral law for local and regional parliamentary elections by a two-thirds majority. Following two consultation processes by the Scottish

Government regarding the extension of voting rights for foreign nationals and prisoners living in Scotland, the Scottish Elections (Franchise and Representation) Bill was introduced on 20 June 2019. The policy memorandum explains:

“Democratic participation challenges the inequalities of power and influence that exist in society. The Bill seeks to ensure an electoral system that supports and empowers the engagement in elections of all those who have chosen to make Scotland their home. [...] The Scottish Government wants Scotland to be a country where every individual who has chosen to live here is equally valued, no matter where they were born. With this in mind, the Scottish Government wants to allow all foreign nationals who are legally resident in Scotland to vote at Scottish Parliament and local government elections.” (Scottish Parliament 2019: §6, §40)

The new law will allow around 55,000 non-EU and non-Commonwealth foreign nationals to vote for the first time in Scotland’s parliamentary and local elections. People claiming asylum will be added to Scotland’s electoral register, as will people who have temporary protection or “humanitarian protection or other forms of leave to remain in the UK” status and are resident in Scotland (Scottish Parliament 2019: §42). In addition, the electoral law reform is intended to ensure that EU citizens resident in Scotland retain their right to vote in Scotland even after the United Kingdom leaves the EU. Noting this intention and difficulties in legal implementation, it says:

“The Scottish Government has made a public commitment to ensuring that the rights of EU citizens to vote are protected after the UK leaves the EU. The amendments to the franchise for devolved elections in the Bill make clear that all foreign nationals living in Scotland and with a legal right to be in the UK will be able to vote in devolved elections.” (Scottish Parliament 2019: §45)

Regarding the right to stand for election in Scotland, it is stipulated that 16 and 17-year-olds are still not allowed to stand as candidates. The same applies to offenders. Councillors will be disqualified from standing if they are sentenced to more than three months in prison, and Members of the Scottish Parliament (MSPs) if they receive a prison sentence of at least one (see Scottish Parliament 2019: §72, §57). It is also proposed to extend the right to vote on a residence basis to those who have indefinite leave to remain in Scotland as foreign nationals:

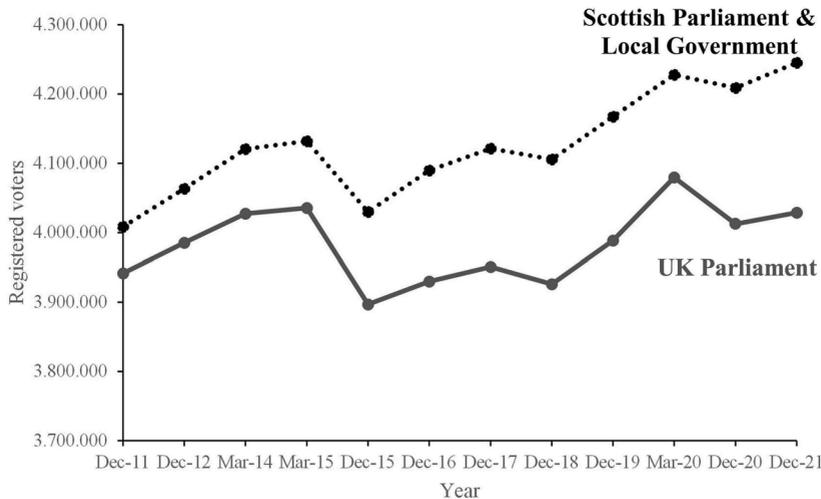
“The Bill seeks to allow all foreign nationals with an indefinite right to live in Scotland to stand as candidates in devolved elections and hold office following those elections. Although foreign nationals with a limited right of residence will be able to vote in a devolved election, there are reasons not to allow a person with a limited right of residence to stand as a candidate”. (Scottish Parliament 2019: §51)

On 20 February 2020, a final decision was made on this bill in the Scottish Parliament (see Scottish Parliament 2020). For the first time in its history, this Parliament required the necessary two-thirds majority of 86 of the 119 voting members of the Scottish Parliament (MSPs) for this decision. However, was the majority achieved? It was exceeded. There were no abstentions, except 27 Conservative Party MPs; all 92 remaining MSPs voted in favour of the electoral reform. On 1 April 2020, the Queen declared the proposed Scottish Elections (Franchise and Representation) Act 2020, and the new electoral law came into force in July of the same year.

Except for the Conservative Party, all parties in Scotland have decided to open and close political participation based on residence. In social terms, i.e., regarding the communicative consideration of individuals, Scottish politics closes and opens along its territorial boundaries. Whether or not someone is allowed to vote or stand as a candidate in Scotland and thus be included in the core of Scottish democracy is increasingly a question of where they live.

Compared to the Scottish electoral register (lower house election), the reform of Scottish regional and local electoral law has led to faster growth, as the following graph shows in terms of the number of voters registered (National Records of Scotland 2022a: Fig. 1).

Figure 7: Scottish electorate at local and regional elections (dotted line) and parliamentary elections (solid line), 2011–2021



The reasons for this difference lie primarily in the motives for registering to vote in the first place. Apart from this, lowering the minimum voting age for Scottish

elections and extending voting rights to all foreign nationals resident in Scotland, including EU citizens and prisoners, is particularly important. Scottish local and regional voting rights are much more linked to Scottish residency than UK-level voting rights.

This highlights the difference between the vertical levels of political systems. Scotland's local and regional electoral register is based on the principle of presence linked to residence. In contrast, the UK's national electoral register is based on citizenship, tolerating a maximum 15-year absence (residential address abroad).

However, the orientation towards the residential address in Scotland is also remarkable in comparison to other regions of European states. Except for Estonia, where, as in Scotland, EU foreigners are entitled to vote at the local and municipal level as soon as they have a residential address, in all other regions of European states, there is always a minimum period of residence before EU foreigners are entitled to vote at these levels:

“The prerequisite for exercising the right to vote is usually a certain length of residence. This ranges from six months in Ireland and three years in Denmark and Sweden to five years in Belgium, Luxembourg and the Netherlands.” (Bauer 2021: 99 translated by the author)<sup>3</sup>

In contrast, Scottish electoral law is not tied to a minimum period of residence. Anyone with a residential address in Scotland within the respective registration period is entitled to vote at local and regional levels. There is no minimum period of residence, as in the Swiss cantons of Jura and Neuchâtel, which are the only cantons with voting rights for foreigners at the cantonal level (SWI 2022). Furthermore, voting rights for foreign nationals in Scotland do not differentiate between EU citizens and other foreign nationals. In contrast to local elections in Germany, France and Austria, all residents of Scotland, regardless of their citizenship, have the right to vote (from the age of 16) and stand as a candidate (from the age of 18). This is in stark contrast to Bavaria, where even for EU citizens, there is a 3-month minimum period of residence before they are eligible to vote in Bavaria. There is an additional restriction that only German citizens may stand for the office of district administrator or mayor in Bavaria, provided they have lived in the municipality for at least six months (Chardon 2020).

Before turning to an explanation of the residence-based delimitation of the Scottish collective, we need to address a countervailing trend in the social structures of

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3 “Die Voraussetzung für die Inanspruchnahme des Wahlrechts ist zumeist eine bestimmte Aufenthaltsdauer. Diese reicht von sechs Monaten in Irland über drei Jahre in Dänemark und Schweden bis zu fünf Jahren in Belgien, Luxemburg und den Niederlanden.” ”

the Scottish social collective. The primary residence-based determination of electoral and voting registers is at odds with considerations of Scottish citizenship, as the next section on the drafts of a Scottish constitution will demonstrate.

### 3.4 Automatic citizenship: Traces of ethnic exclusion

How is the Scottish collective defined in the draft constitution for an independent Scotland? What is the meaning of the territorial demarcation of the collective? A constitution raises a region to the level of a state, i.e. a polity. It defines the political and social structures. It requires a correspondingly strong will on the part of those concerned.

Against this background, the draft Scottish constitution must be analysed as plans or projections of the national collective at the level of the formation of a polity. Such a nation cannot entirely dispense with mechanisms that create a sense of belonging, such as history, custom, ethnicity etc. In fact, as the following pages will indicate, these considerations and their ethnic interpretations have become stronger in recent decades.

There are four constitutional drafts of Scotland. They differ increasingly clearly from a collective characterised purely by place of residence. These draft constitutions were drawn up for Scotland in the last half-century between 1964 and 2014 (Scottish Provisional Constituent Assembly 1964; Scottish National Party 1997, 2002; Scottish Government 2014).

So far, only individual drafts have been analysed. The focus has either been on a comparison with the national constitutional tradition (see Bulmer 2015) or the history of their development has been traced (e.g. on the 1964 draft Hanham, 1969, p. 178; cf. on the Scottish Constitutional Convention Marr, 2013, p. 196ff.; Münter, 2006, p. 207f.) (e.g. on the 1964 draft Hanham 1969: 178; cf. on the Scottish Constitutional Convention Marr 2013: 196; Münter 2006: 207).

Sociologically, however, the question arises as to how national inclusion and exclusion are regulated in these four draft constitutions. What significance is attached to the demarcation of the political collective from the residential community, as we see in the contemporary Scottish autonomy movement, where Scotland is a nation within the United Kingdom? The regulations on automatic citizenship can answer this. Automatic citizenship regulates who automatically receives Scottish citizenship during Scottish independence. The reference problem of automatic citizenship lies in the fact that secession is a particularly politically relevant event. When a territorial state secedes, the future citizenship status of the people living on the territory in question must be largely clarified. Otherwise, the inhabitants of this territory, and thus the territory itself, threaten to be removed from the communicative reach of world politics (Lake/Fariss 2014; Luhmann 2000: 226).

The unique event character is also referred to in the explanatory notes to the latest draft constitution: “In legislative terms and under international law, independence is an event” (Scottish Government 2014: 26). A distinction is made between the entitlement to automatic citizenship and the possibility of acquiring Scottish citizenship after secession (naturalisation). The latter is conceded in the draft constitution of the future policy and, for this reason, cannot be analysed here. However, the entitlement to automatic citizenship in Scotland is regulated.

In the constitution’s first draft, the residential demarcation was decisive for automatic Scottish citizenship in the event of secession. It stated that Scottish citizenship would be automatically granted to all persons who resided in Scotland on the date of the declaration of independence:

“All persons who were domiciled in Scotland at the time of the promulgation of this Constitution shall be citizens of Scotland. Thereafter the acquisition of and loss of Scottish citizenship shall be determined by law, but no person who is a citizen of any other country can be a citizen of Scotland except in cases where the National Assembly by a unanimous resolution shall confer Honorary Citizenship.” (Scottish Provisional Constituent Assembly 1964: §2)

In contrast to the later drafts of the Constitution, this first draft excludes multiple citizenship, except honorary citizenship. Neither parentage, place of birth, nor previous citizenship are taken as the basis for determining automatic entitlement to Scottish citizenship. Only the place of residence on the date of the official promulgation of this Constitution counts. At the end of the draft constitution, this residential demarcation of Scottish citizenship becomes clear again. An exception is made for persons living abroad who were born and raised in Scotland to obtain Scottish citizenship. Such a person living abroad would be eligible for Scottish citizenship if he or she worked in the state administration in Scotland or stood for and was elected to the first Scottish National Assembly (Scottish Provisional Constituent Assembly 1964: §94-95). However, the prerequisite for one of these two mechanisms for obtaining Scottish citizenship despite living abroad is moving to Scotland. In addition, this exception is limited in time to the first National Assembly and, for civil servants, to four years after the promulgation of the Constitution. These limitations in terms of relocation and time illustrate the primarily residential demarcation for access to Scottish citizenship in the first draft of a Scottish constitution.

The 1997 draft constitution also establishes a link between the place of residence when the constitution comes into force and automatic citizenship:

“Citizenship of Scotland will be the right of everyone whose principal place of residence is in Scotland at the date on which the Constitution comes into force.” (Scottish National Party 1997: 8)

In contrast to the previous draft constitution, multiple citizenship is no longer prohibited here. However, the following difference is even more important. In this draft, people born in Scotland are granted the right to Scottish citizenship. This possibility exists irrespective of the person's current residence and without the time limit in the previous draft. With this provision, the 1997 draft constitution already softens the demarcation of the collective in terms of place of residence. Birth in Scotland is introduced as a further mechanism for gaining automatic entitlement to Scottish citizenship. The collective on which this draft constitution is based is thus not understood as a political collective but as a national-ethnic collective.

The two subsequent constitutional drafts show a further weakening of citizenship based on place of residence. In the 2002 draft, the “principal place of residence [...] at the date on which this Constitution comes into force” is again established as an automatic criterion for Scottish citizenship, provided that this place of residence is in Scotland (Scottish National Party 2002: Art. 1.4(a)). However, in the next paragraph, birth in Scotland and the person's descent through their parents' citizenship are introduced as further qualifying criteria. Parental descent is interpreted inclusively, as it is sufficient for one parent to have been born in Scotland. Once again, we find a temporal restriction here. Not only is descent restricted to the generation of the parents, but the principle of descent is also linked to the qualifying parent still being alive at the time the Scottish Constitution comes into force: “being a person who is alive at the date at which this Constitution comes into force” (Scottish National Party 2002: Art.1.4(b)).

In the 2014 independence referendum, the Scottish Government promised an “inclusive model of citizenship” allowing multiple citizenship. The Scotland's Future handbook also states that the Scottish population is used to living together with a wide range of identities. The nation is committed to multiculturalism:

“People in Scotland are accustomed to multiple identities, be they national, regional, ethnic, linguistic or religious, and a commitment to a multicultural Scotland will be a cornerstone of the nation on independence.” (Scottish Government 2013: 271)

Nevertheless, compared to the earlier drafts, it is noticeable that the latest scheme deviates increasingly significantly from the residence principle of the Scottish electoral register. As shown in the following table from the Secession Campaign Handbook, eligibility for Scottish citizenship is divided into three groups of people: 1) those who are automatically granted Scottish citizenship on the day of independence; 2) those who can register for it after independence; or 3) those who can apply for naturalisation.

Figure 8: The regulation of Scottish citizenship in the event of secession (2014)

CURRENT STATUS	SCOTTISH CITIZENSHIP?
<b>AT THE DATE OF INDEPENDENCE</b>	
British citizen habitually resident in Scotland on day one of independence	<b>Yes, automatically</b> a Scottish citizen
British citizens born in Scotland but living outside of Scotland on day one of independence	<b>Yes, automatically</b> a Scottish citizen
<b>AFTER THE DATE OF INDEPENDENCE</b>	
Child born in Scotland to at least one parent who has Scottish citizenship or indefinite leave to remain at the time of their birth	<b>Yes, automatically</b> a Scottish citizen
Child born outside Scotland to at least one parent who has Scottish citizenship	<b>Yes, automatically</b> a Scottish citizen (the birth must be registered in Scotland to take effect)
British national living outside Scotland with at least one parent who qualifies for Scottish citizenship	Can <b>register</b> as a Scottish citizen (will need to provide evidence to substantiate)
Citizens of any country, who have a parent or grandparent who qualifies for Scottish citizenship	Can <b>register</b> as a Scottish citizen (will need to provide evidence to substantiate)
Migrants in Scotland legally	May <b>apply</b> for naturalisation as a Scottish citizen (subject to meeting good character, residency and any other requirements set out under Scottish immigration law)
Citizens of any country who have spent at least ten years living in Scotland at any time and have an ongoing connection with Scotland	May <b>apply</b> for naturalisation as a Scottish citizen (subject to meeting good character and other requirements set out under Scottish immigration law)

Only British citizens who live in Scotland or were born in Scotland have an automatic right to citizenship (Scottish Government 2014: §18). Otherwise, someone must either have been born in Scotland or their birth must be registered there. In addition, the principle of descent *ius sanguinis* applies to this first group of people. Persons born in Scotland are only entitled to automatic citizenship if at least one parent is eligible for Scottish citizenship. Scottish descent is of great importance.

For the second group of people, i.e. Britons living abroad and foreigners of Scottish descent, descent from a parent or grandparent is also important to register for Scottish citizenship in substantiated cases (“substantiate”). From a comparative perspective, what is striking about this formulation of the principle of descent is how inclusive it is regarding gender and generation (de Groot/Vonk 2018: 327). For example, no distinction is made as to whether the parent is the mother or father and,

in the case of foreigners, even the grandparents' generation is taken into account in order to be able to establish a claim to Scottish citizenship from one's ancestry.

The third group includes those who are non-nationals living in Scotland with a legal residence permit and those who have lived in Scotland for at least ten years, for example as a child. In addition to the legal residence title, length of stay and "good character", access to Scottish citizenship for this group of people also depends on Scottish immigration law, which is not explained further in the handbook.

To summarise, the considerations on automatic citizenship, initially based purely on the person's place of residence, are increasingly pointing in a different direction. The most recent draft constitutions, in particular, emphasise the inclusive interpretation of the principle of descent to regulate automatic citizenship distribution. The distance between the considerations of hypothetical Scottish citizenship and the provisions of Scottish electoral law relevant to the Scottish population is increasing.

At the level of expectations of statehood, a vertical differentiation emerges. *We need to distinguish the collective based on political inclusion in Scotland as a region within the UK from a more national cultural Scottish collective that is emerging with the likelihood of Scotland becoming a fully-fledged nation-state.* With the shift within the vertical differentiation of political systems, for example from a region to a nation state, the significance of the political and national-cultural collective also changes, according to the results of this study. Until now, the Scottish endeavour for statehood emanating from the region has been based on the regional inclusion collective of the nation of presence (Anwesenheitsnation). But this need not remain the case. Reflections on Scottish citizenship already show that the founding of a polity is often accompanied by a national-state phase, in which the exclusion based on national culture takes centre stage (Tilly 1992: 2, 107). Bishai puts this small but critical change from a region into a state in perspective:

"The important point here is that 'power' and 'control' are not to be exerted on the self, but by the self against others. This is the goal of national identities in search of a state because this is what an international border provides—the power to make decisions which affect the 'other' by defining and controlling it." (Bishai 2004: 103).

The region is a genuine political system. It is a system of territorial inclusion rather than a national cultural collective based on cohesion delineated by national citizenship (Keating 2013, 2015; Painter 2008; Tatham/Mbaye 2018). The national community defined by the place of birth or ancestry of the still fictitious Scottish citizenship already indicates this conclusion. Levelling a region like Scotland into a fully-fledged nation-state clearly has the potential for autocratic nationalism.

### 3.5 Explaining the political collective

Although Scotland's autonomy movement is placed at the level of a region (i.e., without the need for the national cohesion of citizenship), the question arises as to why the involvement of the population is so important. What function does it fulfil to promote Scotland as a country of immigration?

One critical explanatory factor is demographics. Scottish MPs often talk about the cost of public goods in this regard. In Scottish politics, which is convinced of egalitarianism, public goods can only be provided if there is a corresponding re-financing of the community through employees subject to social security contributions. However, Scotland's demographic situation has led to the need to recruit people of working age globally. This is the reasoning behind the Fresh Talent Initiative launched by Scotland's First Minister Jack McConnell (Labour) in 2003: "If Scotland is to achieve a balanced economy, with a stable tax base to support strong public services, then we must boost the working age population, particularly the 25 – 45 age group." (Scottish Executive 2004: 3)

Scotland's unequal distribution of its population is another factor driving up the cost of public goods. The population in Scotland is very concentrated in some parts and very dispersed in others. A good indicator of this is the road network. In terms of population, Scotland has 59.3 thousand kilometres of roads, almost twice as many as England with 303 thousand kilometres (own calculation based on Office for National Statistics 2016c). If this figure is related to the area, Scotland's high concentration of settlements compared to England is striking. On average, England has 2.3 kilometres of roads per square kilometre of land, compared to just 0.8 kilometres of roads per square kilometre of land in Scotland. The concentration of settlements in Scotland's so-called 'Central Belt' includes many urban regions – from Paisley, Glasgow, Stirling, and Edinburgh to Dundee—and is accompanied by many remote villages and individual houses. The low number of roads compared to England indicates that of Scotland's 7.8 million hectares of land, 82 % of the population live on 6 % of this area. Nevertheless, there are approximately 336,000 people whose homes are more than half an hour's drive from a major settlement of at least 3,000 (Scottish Government 2011: 7f.).

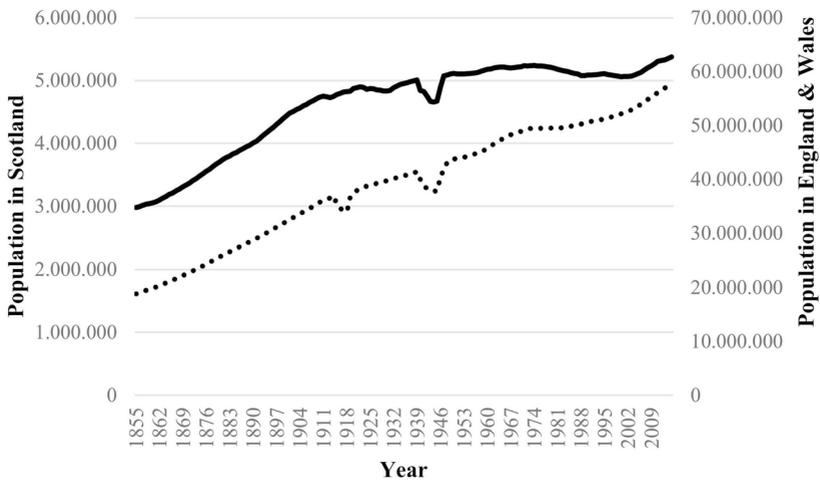
More important than the financing of public goods, however, is another aspect that links demography with majoritarian democracy. Since the population censuses of the mid-19th century, Scotland has drastically lost population and, hence, it has lost political power within the United Kingdom.

As recently as the mid-19th century, there were six people in England and Wales for every one person in Scotland. Today, this ratio of 1:6 has become 1:11.<sup>4</sup> The differ-

4 The exact figures are 1:6.3 in 1855 and 1:10.8 in mid-2015 (own calculations based on Office for National Statistics 2016a).

ent growth paths of the two populations have driven the population figures further apart over this period. The following diagram shows the absolute population figures for both countries (Scotland's continuous line and left Y-axis, England and Wales's dotted line and right Y-axis).

Figure 9: Population in Scotland (solid line, left axis) and England & Wales (dotted line, right axis), 1855–2015



With the exception of the two world wars and the period 1974–1983, the absolute population of England & Wales has grown steadily. Since 1855, the population of England & Wales has tripled—it has grown by 307 %. In the same period, the population of Scotland has increased by 180 %. The graph shows the distribution of Scotland's population growth. From 1855 until shortly before the First World War, both populations show a similar growth curve. The population of Scotland falls for the first time in 1912 (-0.2 %), that of England & Wales in 1915 (-4.55 %). From 1855 to 1914, Scotland's population increased by 47 %, while that of England & Wales increased by 68 %. Thereafter, the two growth curves differ significantly: during the World Wars, Scotland's population falls by 1 % (1914–1945). During the same period, the population in England & Wales grew by 4.2 %. This difference continues in the post-war period: England & Wales' population increases by 43 % between 1946 and 2015, while the Scottish population only increases by 14.4 %. Almost half of Scotland's population growth (310,060 people) occurred after 2001. Population growth, the secession campaign concluded, goes hand in hand with an increase in Scotland's political autonomy.

The main mechanism that has led to these population differences between the two countries is differences due to migration—not differences in mortality. Differences in net migration rates have increased the inequality in the population ratio between Scotland and England & Wales from 1:6 to 1:11.

Michael Murphy (2016: 231) has calculated this effect of net migration rates. For the period from 1850 to 2013, he related the natural rate of population change (annual births minus the death rate) to the net migration rate (immigration minus emigration) of the respective country. Of the eleven countries in his analysis, Scotland shows the greatest population loss due to emigration and differs significantly from the population development in England and Wales. At the start of the period analysed in 1850, England and Wales had a population of 17.6 million and Scotland (1855) 2.8 million. Without migration, the population in England and Wales would have risen to 53.8 million by 2013. Taking migration into account, there was even a slight population increase above the natural rate of change of 5 % to 56.8 million people.

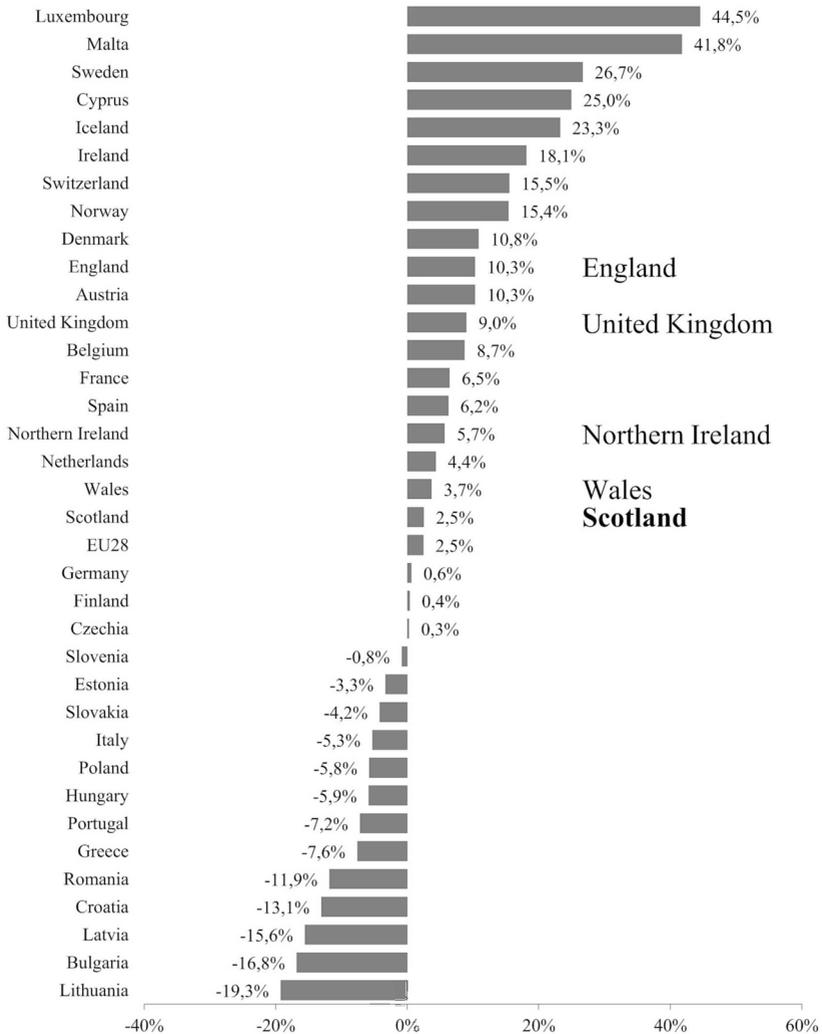
In Scotland, the result is the opposite. While 2.8 million people lived in Scotland in 1855, this figure rose to 5.1 million in 2013. If there had been no migration in Scotland over this period, Scotland would have a population (and the political power) of 11.4 million people today. England and Wales have therefore gained 5 % of their population through migration since 1850, while Scotland has lost 53 % of its population through migration over this period. Without migration, Scotland's population ratio to England and Wales would be 1:5, but in 2015—as a result of net emigration—the population ratio was 1:11 (2015). Since the interwar period, the population in England and Wales has had a net emigration rate, which has only been achieved in Scotland since the 1990s. For Scotland's demography, net migration is more important than natural change (births minus deaths): Despite net migration since the 1990s, the natural change rate is falling to zero, while it is rising in England and Wales (see Anderson 2016: 85). With the exceptions of 1989 and 1993, more people emigrated from Scotland than moved to Scotland until 2000 (National Records of Scotland 2016: 42).

Therefore, the first Scottish Government, with the participation of the SNP, set population growth as one of its targets. It adopted a National Performance Framework in 2007, which it confirmed and supplemented in 2011 and 2016. One of the targets is the 'Purpose Target' of achieving population growth at the average level of the 15 EU member states between 2007 and 2017. Alongside health, migration is identified as one of the policy areas for achieving this aim (Scottish Government 2012a).

Democracy, which potentially includes every single person as an individual, is therefore a reinforcing factor in the focus on the Scottish collective based on presence (Anwesenheitsnation). With the introduction of universal suffrage, Scotland's population loss to England and Wales, is a loss of power of the Scottish collective within the United Kingdom. The latest forecasts from the Office for National Statistics illustrate Scotland's dramatic democratic situation. Without statehood or minority protection through regional or other autonomy, Scotland's political position

in the UK is likely to be increasingly weakened. As the table below shows, Scotland's population growth over the next 25 years (2018–2043) is expected to be in line with the average of the 28 EU member states (see National Records of Scotland 2020: Figure 13).

Figure 10: Projected population development in Europe, 2018 to 2043



However, compared to the UK, it is striking that Scotland's population continues to grow much more slowly than England's population, which is already ten times larger. There is another peculiarity. Compared to England and Northern Ireland, immigration is particularly important for Scotland's projected population growth (also Wales National Records of Scotland 2020: Figure 11).

Figure 11: Components of population growth in the United Kingdom, mid-2018 to 2043



As a result, the demographic gap between the Scottish and English populations is expected to widen further in the foreseeable future.

Since 1999, inward migration from outside the UK has been more important to Scotland's population growth than immigration from the rest of the UK (National Records of Scotland 2022c). The majority of net immigration to Scotland from the rest of the UK comes from England and Wales. Since 2000, more people have moved to Scotland from England and Wales than vice versa. This is shown by the following chart (based on National Records of Scotland 2022b).

Surprisingly, Scotland has managed to maintain net immigration from England for over twenty years. Surprising, because the state of research suggests otherwise (on Scots in England see Leith, M./D. Sim 2020; Leith/Sim 2017). For example, the essays compiled by Tom Devine and Paddy Logue on what 'Being Scottish' means. In them, Scotland's demarcation from England is repeatedly expressed thematically and often as an "anti-English" attitude (see Devine/Logue 2002: 265).<sup>5</sup>

5 Likewise, Winnie Ewing opened the first Scottish Parliament in 1999 with the hope of "better relations with England, Wales and Northern Ireland" (Scottish Parliament 1999a).

Studies of national identity, while recognising the Scottish population's openness to so-called Black Asian Minority Ethnicity, reveal resentment towards those originating from England or speaking with an English (cf. Bond 2006: 619). And English people living in Scotland also sometimes misrepresent their national identity. Jackie Abell et al. have shown in interviews that people moving to Scotland from England do not primarily describe their identity in national terms, but in terms of "Britain's status as an island" (Abell/Condor/Stevenson 2006: 219). Nevertheless, in recent years Scotland has attracted more people from England and Wales than vice versa. Comparatively, Winnie Ewing opened the first Scottish Parliament in 1999 with the hope of "better relations with England, Wales and Northern Ireland" (Scottish Parliament 1999a).

Figure 12: Net migration from England & Wales to Scotland, 1991 to 2020



However, international migration is even more important for Scotland's projected population development. Due to the high relevance of international immigration for Scotland's population development, the so-called BREXIT is a reinforcing factor in Scotland's desire for autonomy. The UK government interpreted the

narrow majority's vote to leave the European Union as a demand for immigration control. In the words of the then Prime Minister: "the message from the public before and during the referendum campaign was clear: Brexit must mean control of the number of people who come to Britain from Europe. And that is what we will deliver." (May 2017)

The Scottish Government views such statements as exclusionary and rejecting nationalism. The following tweet from Scotland's then First Minister, Nicola Sturgeon (SNP), is exemplary. She emphasises that Scotland is dependent on immigration: "If the UK government's immigration paper is as expected it be devastating for the Scottish economy – our demographics make it essential that we attract people to live & work here." (Tweet from Nicola Sturgeon on immigration, 19/12/2018, @NicolaSturgeon)

Both positions are understandable. They illustrate an important difference in the Scottish and English migration history of recent decades. In the secession campaign, migration has been linked to the demographic divide between Scotland and England. Alex Salmond referred to this in his Declaration of Opportunity:

"If I had to pick a single statistic which shows why Scotland needs independence, it is this one: Scotland's population has increased by just over 10 % in 100 years from 1901 to 2001. Over the same period the population of England increased by almost 60 %. Under devolution, the 10 years from 2001 to 2011 saw Scotland's highest population growth in a century." (Salmond 2014)

According to Salmond's argument, Scotland's regional autonomy, referred to as 'devolution', makes Scotland attractive, as can be seen from its population growth.

Scotland's relative and absolute population loss to England is dramatic in the context of shared democracy. In the democracy of the state as a whole, which as a democracy excludes collective special rights because it places individual inclusion at the centre, the Scottish population loss leads to a structural imbalance of power in relation to England. Almost at the same time as the first party to campaign for Scottish independence, the centre-left National Party of Scotland, universal suffrage was introduced in the United Kingdom in 1928. Two decades later, it was finalised by the Representation of the People Act 1948. The latter abolished 'multi-member seats' and 'university constituencies' (see Johnston 2013: 46-47). This democratic principle of equality "one person, one vote" emphasises the loss of power of the Scottish population.

Differences in demographic development have political consequences. This is a common place in the Scottish quest for autonomy. For example, in the Claim of Right published in 1988 in favour of Scottish regional autonomy: "So far as the Scots vote for United Kingdom parties, these parties will themselves regard Scottish issues as a subsidiary to the winning of British votes." (Edwards 1989: 3.2) As issues in Scotland

affect fewer and fewer voters, attention to them is diminishing. They are governed by the majorities achieved in English constituencies, as the secession campaign puts it by referring to it as the democratic deficit (Campbell 2014). Without institutional arrangements such as regional autonomy or minority protection, the widening and accelerating demographic gap between Scotland's and England's populations will become what Scottish activists have labelled the 'Westminster power grab' problem for shared democracy (Torrance 2020a).<sup>6</sup> Demographics are a distal factor in Scotland's immigration-seeking drive for autonomy, making Scotland a nation of presence.

The reason for the strengthening of the Scottish presence nation is to be found in the constellation of the majoritarian democracy of the United Kingdom and the unequal demographic development of the constituent nations. It lies in the loss of power through the majoritarian democracy and in the different demographic development between the Scottish and English populations. By emphasising the political collective of inclusion, the Scottish aspiration for autonomy reacts to the Matthew effect (Merton 1968) of the disparate demographic development of Scotland and England. The initial discrepancy in demographic development between Scotland and England continues to accelerate today and leads to a correspondingly increasing imbalance of power in the democracy of the UK.

### 3.6 Conclusion

Scotland's quest for statehood is based mainly on the self-government of a territorial delineated collective. This collective primarily includes the Scottish population. In order to join this collective and shape common interests, it is vital to live in Scotland and to want to belong to this collective. Every person settling in Scotland should have the right to choose their nation and help shape Scotland's future. Considerations of citizenship differ from this political collective of inclusion. In these considerations, the state is more important than the region. Particular importance is attached to ancestry and place of birth because, with few exceptions, states today are national cultural polities.

If Scottish citizenship existed in this ancestral form, but voting rights continued to follow the principle of residence, two distinct social collectives would emerge. People who do not live in Scotland could become Scottish citizens, but Scotland's national politics would be decided by those who live in Scotland. Would the nation based on citizenship follow the inclusive collective of the people already structured

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6 According to the SNP on the Internal Market Bill (<https://www.snp.org/westminster-power-grab/> Accessed 27 January 2024).

by Scotland's regional devolution? At the moment, the Scottish collective of inclusion is much more important than the ethnic collective.

As a result, this primacy of the political collective of inclusion stylises Scotland as a regional nation of presence. Subject to age, the low-threshold inclusion collective enables political participation for anyone living in Scotland. *Uno actu*, this social structure excludes those who live outside Scotland from Scottish politics. In Scottish politics, a territorial boundary between inclusion and exclusion becomes clear for the entire world population (that is a modern function of the national polity, see Stichweh 2005: 41; cf. Bishai 2004: 104). The boundary of the collective is drawn by presence, and this notion was one of the founding principles of the world's first modern democracy:

“Democracy was initially a political form linked to, and seemingly dependent on, interaction between those present. In the revolutionary United States, democracy was said to depend on being able to reach all the places in the country within a day on horseback, thus enabling rapid interactive contact (Thomas Jefferson).” (Stichweh 2007: 31 translated by the author)<sup>7</sup>

However, the emergence of the Scottish presence nation is due to the consequences of the cumulative inequality of the different demographics of Scotland and England. This is because demographic inequality leads to democratic inequality, since Scotland and England both belong to the same majoritarian democracy. Of course, regional autonomy can prevent secession. However, with regional autonomy comes the realisation of a distinct Scottish politics and culture, as the following Chapters show.

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7 “Demokratie war zunächst eine politische Form, die mit der Interaktion unter Anwesenden verknüpft war und auf diese angewiesen schien. In den Vereinigten Staaten der Revolutionszeit war dann davon die Rede, dass Demokratie davon abhängt, dass man mit einem Pferd alle Orte im Staat innerhalb eines Tages zu erreichen imstande sei und in diesem Sinne schnelle interaktive Kontaktaufnahme möglich sei (Thomas Jefferson).”