

Scotland's future in Scotland's hands.



7th September 2014

Dear Tom

LGBTI equality and the independence referendum

Thank you for your letter and attached questions on LGBTI equality and the independence referendum.

The SNP is committed to improving equality in Scotland and we are proud of the progress we have made towards LGBTI equality since 1999. We believe that independence gives us a once in a lifetime opportunity to build on this progress, by embedding and enhancing LGBTI rights.

Please find attached the response on behalf of the Scottish National Party to each of the questions raised in your letter.

Thank you, once again, for making contact on this crucially important issue.

ALEX SALMOND

Yours faithfully
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LGBTI Equality and the Independence Referendum

Equality Law

1. If there is a vote for independence, will your party support protecting equality in the written constitution of Scotland, including on grounds of sexual orientation, gender identity and intersex status?

Yes. In June of this year, the Scottish Government published a draft Scottish Independence Bill providing for Scotland to be an Independent State and setting out the interim constitution which would apply from Independence Day.

Section 28 of the draft Bill ensures equality will be protected and advanced in an independent Scotland. The draft Bill sets out that "the Scottish Government and public authorities must, in carrying out their functions, seek to promote and secure equality of opportunity for every person in Scotland regardless of personal characteristics".

We would seek that these equality protections – including regarding age, disability, gender identity, gender reassignment, intersex status, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex and sexual orientation – would also be taken forward within the constitutional convention to have them enshrined in the permanent constitution for Scotland.

2. If there is a vote to remain in the UK, will your party support further devolution of equal opportunities powers, as is already the case in Northern Ireland, so that Scotland can protect the progress that has been made in recent years and deal with the deficiencies of current equality law, including:

- That discrimination on grounds of gender identity and intersex status are not fully covered
- That unlike sex, gender reassignment, race and disability, there is no protection from harassment in the provision of goods, facilities and services for the sexual orientation protected characteristic
- That same-sex couples are not currently entitled to equal pension provisions under private sector pension schemes.

Would you support complete or partial devolution of equal opportunities powers?

We believe that the Scottish Parliament should be responsible for all decisions affecting equalities in Scotland. The SNP will always work to secure the best possible outcome for Scotland. The Edinburgh agreement commits the Scottish and UK governments to act in the best interests of the people of Scotland – irrespective of the outcome of the referendum.

While equality legislation is reserved to Westminster, the Scottish Parliament remains constrained in what more progress we can make, including on pensions provisions and equalities protection.

The SNP Scottish Government has repeatedly written to the UK government requesting that competence in the field of equalities is transferred to the Scottish Government, which would allow us design an equality framework that meets the needs of the people of Scotland – before independence in 2016.

3. In your view, would a vote for independence or a vote to remain in the UK be better for the future of equality law in Scotland, and why?

With a Yes vote, Scotland will have a permanent written constitution, the creation of which should engage all the people of Scotland. The UK is one of only three countries in the world that doesn't have a written constitution.

The written constitution for an independent Scotland will protect the fundamental rights and freedoms of everyone living in Scotland, such as equality of opportunity and the right to live free of discrimination and prejudice.

The draft constitution that we published in June makes it clear that every person in Scotland is equal before the law and has equal entitlement to its protection and benefit. We included a list of personal characteristics which include, for example, sexual orientation, gender reassignment, gender identity and intersex status.

A vote for independence means protecting and enshrining equality and human rights in a permanent written constitution and equality law that reflects Scotland's needs. That is why a Yes vote will be better for the future of equality law in Scotland.

Leadership and Resources

4. If there is a vote for independence, in what ways will your party ensure that Scotland commits adequate leadership and resources on efforts to secure LGBTI equality and human rights through public services (e.g. promoting equality in schools, tackling hate crime)?

The SNP is committed to ensuring that Scotland's public services are funded at a level that is right for Scotland and provide equality for all, including LGBTI people.

We reject Westminster's failed austerity, which puts our cherished public services under threat. Only a Yes vote guarantees that Westminster will no longer be able to cut the funding available to the Scottish Parliament. With independence we have set out plans to invest £3.6 billion by 2018 to end austerity, invest in jobs, economic growth and ensure our public services are properly funded, whilst reducing the deficit.

In an independent Scotland, the functions of the Equality and Human Rights Commission (EHRC) in Scotland which relate to equality will transfer to a new public body. The EHRC's human rights functions will transfer to the Scottish Human Rights Commission which will continue to act as Scotland's national human rights institution – taking the lead on protection and promotion of human rights and equality in Scotland. An Equality Advisory Support Service, which will provide information and advice to the general public, will also continue to operate.

5. If there is a vote to remain in the UK, in what ways will your party ensure that Scotland commits adequate leadership and resources on efforts to secure LGBTI equality and human rights through public services?

The SNP is committed to improving equality in Scotland and we are proud of the progress we have made towards LGBTI equality since 1999.

The SNP has repeatedly called for equalities legislation to be devolved to the Scottish Parliament, so that we can build on the Scottish Parliament's strong record in advance of Scotland's independence in March 2016.

6. In your view, would a vote for independence or a vote to remain in the UK be better for the future of efforts to secure LGBTI equality and human rights through public services, and why?

A Yes vote would secure the best possible outcome for LGBTI equality and human rights in Scotland. It will ensure that we can continue to build on the progress delivered with devolution.

The SNP Scottish Government has proposed a constitutional guarantee, with independence, that any Scottish Government and public authorities must seek to promote and secure equality of opportunity for every person in Scotland.

Foreign Affairs and International Development

7. If there is a vote for independence, how will your party ensure that Scotland has a strong influence promoting LGBTI equality and human rights around the world, for instance through diplomatic efforts and the provision of aid?

Scotland is already a world leader on LGBTI equality. The Glasgow Commonwealth Games, for example, allowed us to showcase and share our commitment with other countries around the world. With independence we can and will do more.

An independent Scotland will be clearly positioned as a country which observes international law and respects and promotes human rights, democratic values, equality and good governance. We've taken a more progressive approach to LGBTI equality than Westminster with world-leading laws and we've also shown that we can innovate through our approach to international development and aid.

With complete control over foreign policy and international development we will be able to make full use of diplomatic relations and actively promote LGBTI equality and human rights around the world. Independence will also allow us to adopt a new humane approach to asylum seekers and refugees that offers protection to those facing persecution.

8. If there is a vote to remain in the UK, how will your party ensure that Scotland is able to play its part in promoting LGBTI equality and human rights around the world?

The Edinburgh Agreement makes it clear that both governments will continue to work together constructively in the light of the outcome, whatever it is. We will always do what we can to promote LGBTI equality and human rights around the world.

This referendum is a choice of two futures. Senior ministers in the current Westminster Government favour abolition of the current Human Rights Act, and even complete withdrawal from the European Convention on Human Rights (ECHR) – putting LGBTI equality in Scotland at risk and sending a strong message to the international community on how they view human rights and equality.

9. In your view, would a vote for independence or a vote to remain in the UK better enable Scotland to promote LGBTI equality and human rights around the world, and why?

For the reasons outlined above, I believe that a vote for independence will better enable Scotland to promote LGBTI equality and human rights around the world.

Asylum

10. If there is a vote for independence, will your party ensure that Scotland welcomes LGBTI people seeking asylum from their home country because of a well-founded fear of persecution on grounds of their sexual orientation, gender identity or intersex status?

Control over immigration and asylum, alongside equality legislation, is one of the big opportunities of independence and will be important in supporting Scotland's ambition to be a progressive, welcoming and inclusive state. With independence we can have a new humane approach to asylum seekers and refugees in line with our values and commitment to upholding internationally recognised human rights. Our approach stands in stark contrast to Westminster's aggressive approach that is best exemplified by their offensive "go home" advertising campaign.

Scotland has a very clear position on promoting lesbian, gay, bisexual and transgender and intersex rights both at home and abroad. Earlier this year the Scottish Minister for External

Affairs wrote to the UK Foreign Secretary making it clear that Scotland stands ready to help those seeking refuge from Uganda's draconian anti-homosexuality laws.

An independent Scotland will have the opportunity for a new model of asylum services separate from immigration, with a Scottish Asylum Agency overseeing asylum applications. The process will be both robust and humane, and we will continue Scotland's present approach of promoting the integration of refugees and asylum seekers from the day they arrive, not just once leave to remain has been granted. This will include addressing asylum seekers' access to employment, education and accommodation.

In an independent Scotland, we will close Dungavel, end the practice of dawn raids and inhumane treatment of those who have exercised their legitimate right to seek asylum. If a failed asylum seeker is a risk to the public, secure accommodation will be sought whilst steps are taken to remove them. If there is a need for forcible removals, these will be undertaken with respect for human rights.

11. If there is a vote to remain in the UK, will your party support the improvement of the UK's asylum processes so that LGBTI people with a well-founded fear of persecution in their home country because of their sexual orientation, gender identity or intersex status, can find asylum in the UK?

The Scottish National Party supports LGBTI rights in Scotland, the UK and across the world and will continue to do so.

12. In your view, would a vote for independence or a vote to remain in the UK be better for the future of asylum provision in Scotland, and why?

As outlined above, independence will allow Scotland to take a different and more humane approach to asylum provision. None of the Westminster parties propose any devolution of immigration, asylum or equalities powers. A No vote means asylum and equality policy remaining in the hands of Westminster and Tory governments that Scotland has rejected.

Summary

13. In your view, why should LGBTI people in Scotland vote for independence or vote to remain in the UK, both in terms of LGBTI equality and also more generally?

LGBTI people will benefit equally from independence for all of the same reasons as any other citizens of Scotland. Independence is our one opportunity to ensure that all decisions about Scotland are taken in Scotland by the people who live and work here. With the full powers of an independent country, Scotland can be the fair and equal society that we all want to see.

Independence is a once in a lifetime opportunity to embed and enhance LGBTI rights. With independence we will be able to enshrine LGBTI and human rights equality in a written constitution – ensuring our rights cannot be easily reversed by any government. With a No vote we face the prospect of another Tory government committed to scrapping the Human Rights Act.

With the power to speak with our own voice in the world, we will join our friends in promoting LGBTI equality abroad. With a Scottish Parliament we already have a reputation for promoting LGBTI rights across the world – with independence we can develop this reputation with a seat at the top table.

Since the establishment of the Scottish Parliament, Scottish administrations of all parties have put equality at the heart of everything they do. But it's only with the full powers of an independent country that we can finally secure true equality for LGBTI people and a fairer society for all.