

EXPERT OPINION MEMORANDUM: SCOTLAND AND FRENCH POLYNESIA

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Subject: Comparative Legal Assessment: Scotland and French Polynesia under the United Nations Decolonization Framework

I. Executive Summary

This memorandum presents a comparative legal and political analysis of the situations of Scotland and French Polynesia under the decolonization framework established by the United Nations Charter and General Assembly Resolutions 1514 (XV), 1541 (XV), and 67/265. Its primary objective is to demonstrate that the structural characteristics of subjugation, dependency, and lack of sovereign autonomy observed in French Polynesia—leading to its re-inscription on the list of Non-Self-Governing Territories (NSGTs) in 2013—are present to an equal or greater degree in Scotland.

French Polynesia was re-inscribed as an NSGT by the General Assembly through Resolution 67/265, adopted on 17 May 2013, at the initiative of third-party states and without the consent of the administering Power (France). The General Assembly found that, despite formal integration into the French Republic, French Polynesia retained the essential characteristics of colonial subordination: strategic exploitation, economic dependency, restricted cultural self-expression, and the absence of full self-government as defined under international law. France's objections were overridden by the principle that the United Nations—not the administering Power—has the authority to determine the existence of a colonial situation.

The present memorandum applies the same normative framework to Scotland. Despite its designation as a devolved constituent nation within the United Kingdom,

Scotland continues to lack legal sovereignty, international legal personality, control over critical sovereign functions, and access to binding mechanisms of self-determination. Its economic and cultural institutions are subordinate to Westminster, and its political will—most recently expressed through the demand for a second independence referendum—has been unilaterally denied by the central government.

Like French Polynesia, Scotland has never had the opportunity to freely determine its international political status through a binding, internationally supervised process. The original Treaty of Union of 1707 was not the product of democratic expression but rather of political coercion and elite negotiation, conducted in the absence of public participation. More than three centuries later, the continued denial of Scotland's right to self-determination persists in a legal and institutional environment that mirrors the features that led to the UN's recognition of French Polynesia as a colony in need of decolonization.

Referendum 2014 comparable to those in French Polynesia

This memorandum concludes that Scotland meets the same legal and factual thresholds that justified the General Assembly's action in Resolution 67/265. It recommends that Scotland be added to the agenda of the UN Special Committee on Decolonization and formally inscribed on the list of Non-Self-Governing Territories, thereby enabling its people to exercise their right to self-determination under United Nations supervision.

II. Legal Criteria under UN General Assembly Resolutions 1514 and 1541

The legal framework governing the right of peoples to self-determination and the identification of territories requiring decolonization is codified in the Charter of the United Nations, the Declaration on the Granting of Independence to Colonial Countries and Peoples (Resolution 1514 (XV)), and the accompanying principles laid out in Resolution 1541 (XV). In the case of French Polynesia, a further procedural milestone was established by Resolution 67/265, (adopted on 17 May 2013 by a recorded vote of 116 in favour, 6 against, and 51 abstentions), which confirmed the authority of the General Assembly to re-inscribe territories on the list of Non-Self-Governing Territories without the consent of the administering Power. Moreover, the International Court of Justice's Advisory Opinion on the Accordance with International Law of Unilateral Declaration of Independence in Respect of Kosovo (2010) affirmed the principle that the General Assembly may recognize unilateral expressions of self-determination absent the administering Power's consent.

This section examines these legal instruments and applies their interpretive standards to the situation in Scotland, affirming its qualification for inclusion in the UN decolonization framework based on the precedent of French Polynesia.

1. Resolution 1514 (XV) – Declaration on the Granting of Independence

Adopted on 14 December 1960, this resolution declares that:

“All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”

The resolution recognizes the continued existence of colonialism in disguised forms and affirms the obligation of the international community to bring such arrangements to an end unconditionally and without delay. The General Assembly has repeatedly reaffirmed that neither internal autonomy nor administrative integration can override a people’s right to decolonization, particularly where the conditions of dependence remain.

2. Resolution 1541 (XV) – Defining Full Self-Government

Resolution 1541, adopted on 15 December 1960, provides interpretive criteria for determining whether a territory has achieved a full measure of self-government. Under Principle VI, a territory ceases to be non-self-governing only upon:

- Emergence as a sovereign and independent state;
- Free association with an independent state, established through informed and democratic choice;
- Integration with an independent state, provided it is the result of a genuine act of self-determination.

In the case of French Polynesia, the lack of any democratic or internationally supervised process affirming the will of the Polynesian people to be integrated with France meant that these thresholds were not met. Despite its status as an overseas collectivity under the French Constitution, French Polynesia was still deemed to retain colonial characteristics—including the inability to control its foreign affairs, defense, currency, and economic development.

Scotland similarly fails to meet any of these modalities. Its continued subordination to Westminster, the revocability of its devolved status, and the absence of a binding and internationally recognized mechanism for self-determination mean that it has not yet attained a full measure of self-government as defined by Resolution 1541.

3. Resolution 67/265 (2013) – Re-inscription of French Polynesia

This resolution, adopted on 17 May 2013, re-inscribed French Polynesia on the list of Non-Self-Governing Territories. It did so:

- Without the consent of France, the administering Power;
- On the basis of a motion introduced by third-party Member States (Solomon Islands, Nauru, and Tuvalu);
- With the justification that French Polynesia had been integrated into France without a valid expression of the popular will, and that strategic exploitation and cultural suppression persisted.

Resolution 67/265 reasserted that only the United Nations has the competence to determine whether a territory is colonial in nature, regardless of the constitutional framing adopted by the metropolitan state. The case of French Polynesia set the precedent that legal integration and internal autonomy do not nullify the international obligations of decolonization when colonial structures remain substantively intact.

This precedent is of direct relevance to Scotland, whose 1707 integration into the United Kingdom occurred without a democratic process or referendum, and whose subsequent attempts to exercise self-determination have been systematically denied or obstructed. The formal structure of devolution, as in the case of Polynesia's internal collectivity status, does not constitute full sovereignty. The lack of a decisive, binding act of democratic will confirming Scotland's political future under international law places it squarely within the domain of Resolution 1541, and invites the application of Resolution 67/265.

4. Legal Parity and the Authority of the General Assembly

The re-inscription of French Polynesia established a second vital precedent: that Member States of the United Nations may propose the inclusion or re-inscription of a territory without the agreement of the administering Power. The General Assembly, acting as the guardian of international norms and the right to self-determination, is not bound by the constitutional interpretations of former or current colonial authorities. What matters is the substantive reality—whether the people in question possess genuine and irrevocable self-government.

In the case of Scotland, the reality remains that its political and economic sovereignty are limited by a centralized structure that does not permit the exercise of self-determination through legal or constitutional means. Thus, Scotland meets the definitional standards established by all three resolutions, and the General Assembly is legally empowered—and arguably obliged—to consider its inclusion among the Non-Self-Governing Territories.

III. Comparative Constitutional and Political Analysis

The constitutional and political arrangements of Scotland and French Polynesia—while shaped by different colonial traditions—display notable parallels in form, function, and legal effect. This section examines the internal legal orders of each territory, their relationship to the administering Power, and the mechanisms (or lack thereof) available for exercising self-determination. The analysis demonstrates that both territories remain structurally subordinate to their respective metropolitan states and have been denied the opportunity to freely and definitively determine their political status, as required under international law.

1. Integration by Force or Elite Pact Without Democratic Legitimacy

French Polynesia was annexed by France in 1880 following a period of military occupation and colonial expansion. No formal referendum or act of self-determination was ever conducted to legitimize its incorporation into the French Republic. The process was unilateral, imposed by colonial authorities, and never subjected to the freely expressed will of the Polynesian people, even after the establishment of the United Nations and the entry into force of international legal standards concerning decolonisation.

Scotland was nominally incorporated into the so-called "new" state of Great Britain in 1707 (now the United Kingdom of Great Britain and Northern Ireland) through the Treaty of Union of 1707. However, there was no popular vote, public consultation, or democratic participation in the process—conditions which, under contemporary international law, would be considered incompatible with the right of peoples to self-determination. The overwhelming majority of the Scottish population opposed the Union. Given that, under Scots law, sovereignty rests with the people rather than the Crown or Parliament, this lack of consent arguably invalidates the treaty in both legal and moral terms.

Furthermore, the Treaty of Union was never fully implemented. Its principal provisions—namely, the creation of a new and conjoined Kingdom with a unified Crown, and the establishment of a new and equal Parliament—were effectively abandoned. Instead, Scotland was annexed: its Parliament was abolished, its Crown was subordinated to the English (or subsequently British) Crown, and Scottish MPs were simply added to what was essentially a renamed English Parliament. These actions constituted a form of colonial subjugation, effectively rendering Scotland a legal dependency of the English Crown.

This process discarded the foundational legal agreement and replaced the intended union with the unilateral continuation of English sovereignty over Scotland, misrepresented as a merger of equals. In reality, there is no functional union or partnership in effect, nor does any legally operative agreement exist today to support the claim that

such a union was ever created. As such, Scotland cannot secede from a treaty that was never implemented, nor can it withdraw from a union that does not, in legal terms, exist.

As with French Polynesia, the only lawful remedy for Scotland's annexed condition is decolonisation.

In both cases, the historical incorporation occurred without democratic consent, and neither territory has been granted an opportunity to revisit or ratify that status through a legally binding, internationally supervised act of self-determination.

2. Subordinate Status Within the Constitutional Framework of the Administering Power

French Polynesia, though nominally an “overseas country” within the French Republic, remains governed by the French Constitution, which asserts the indivisibility of the Republic and centralizes sovereignty in Paris. While Polynesia possesses a local Assembly and limited executive powers, France retains exclusive control over defense, foreign affairs, monetary policy, immigration, and constitutional interpretation. These powers are non-delegable and define the core of statehood.

Scotland, under the Scotland Act 1998, exercises devolution rather than sovereignty. Its powers are delegated—not inherent—and may be unilaterally overridden, suspended, or revoked by the UK Parliament. The doctrine of Parliamentary sovereignty, affirmed by the UK Supreme Court in 2022, leaves Scotland without constitutional recourse to hold an independence referendum or initiate legal separation, unless authorized by the UK Government.

Thus, both territories exist within a unitary legal order dominated by the central government, with no independent status in international law, no treaty-making capacity, and no right to external self-determination.

3. Suppression of Sovereign Democratic Expression

In French Polynesia, electoral and constitutional reforms have not enabled genuine sovereign choice. The territory remains unable to initiate binding referenda on independence, and any movement toward sovereignty must pass through French constitutional channels, which deny the right to unilateral secession.

In Scotland, despite sustained electoral mandates from the Scottish Parliament for a second independence referendum—particularly in light of Brexit, which altered Scotland's constitutional position without its consent—the UK Government has consistently refused to grant permission. The denial of a Section 30 order effectively blocks Scotland from organizing a vote with legal consequence, thereby suppressing the exercise of self-determination. [Recent polling](#) underscores this point: a [January 2025 YouGov survey](#) found that 44% of respondents would back Scottish independence in a legally binding

referendum, with 29 % opposed, while a [June 2024 Ipsos MORI](#) poll recorded 51 % in favour versus 49 % against.

In both territories, the administering Powers have engineered constitutional and procedural frameworks that appear to allow autonomy while preserving real control, effectively precluding the realization of political independence through lawful and democratic means.

4. Absence of International Legal Personality

Neither French Polynesia nor Scotland is recognized as a sovereign entity under international law.

- French Polynesia is represented abroad solely through French embassies, has no ability to accede to treaties, and must defer to France in all diplomatic, security, and trade matters.
- Scotland, likewise, has no separate international legal standing, and its interests abroad are represented exclusively by the United Kingdom. It may not conduct foreign policy or enter international agreements, even where it possesses distinct legal and cultural interests.

This absence of international personality confirms their continuing subordination, as envisioned in Resolution 1541, and aligns both territories with the criteria for recognition as non-self-governing.

IV. Substantive Parallels in Governance and Dependency

Despite operating within distinct colonial and geopolitical contexts, Scotland and French Polynesia manifest structural parallels in their governance arrangements, fiscal dependency, cultural assimilation, and lack of international legal agency. These parallels reinforce the view that Scotland meets the same substantive conditions of dependency that led to French Polynesia's re-inscription on the list of Non-Self-Governing Territories by the General Assembly in Resolution 67/265 (2013).

1. Retention of Sovereign Powers by the Administering Power

In both cases, the administering Power has preserved ultimate authority over all essential functions of statehood:

- French Polynesia remains under the sovereignty of the French Republic. France retains exclusive competence over foreign affairs, defense, justice, monetary

policy, immigration, and constitutional oversight. Any modification to Polynesia's status must originate in and be approved by Paris. Even within the scope of the Organic Law (Loi organique n° 2004-192), self-government is exercised under strict limits defined by the French constitutional order.

- Scotland similarly remains subordinate to the authority of the United Kingdom Parliament. Key sovereign powers—such as defense, foreign relations, currency, constitutional reform, and citizenship—are reserved to Westminster. The devolved Scottish Parliament cannot act beyond the scope granted by the Scotland Acts and lacks the authority to hold a legally binding independence referendum without central government approval. The UK Supreme Court's 2022 ruling confirmed this constitutional dependency.

This concentration of sovereign functions in the hands of the administering Power is a defining feature of colonial arrangements and is incompatible with the concept of full self-government under Resolution 1541 (XV), Principle IX.

2. Economic Dependence and Strategic Resource Control

Both territories exhibit entrenched patterns of economic dependency, sustained by policies that prioritize metropolitan interests over local development:

- In French Polynesia, France exercises direct control over public finances, trade relations, and strategic industries, particularly those involving natural resources, tourism, and infrastructure development. The territory is heavily reliant on transfers from the French central budget. This reliance is coupled with restrictions on independent trade and investment policies.
- Scotland's economy, while developed, is structurally integrated into and controlled by UK fiscal and monetary institutions. The North Sea oil and gas resources, which lie primarily in Scottish waters, are managed and taxed by Westminster. (The constitutional arrangement by which the English Crown manages and administers the territorial and maritime assets of the Scottish Crown, whose continued existence continues to define both the territorial boundaries of Scotland and its exclusive ownership of these resources, is almost entirely hidden from the Scottish population as well as the international community.) Scotland has no monetary autonomy, as it does not control the pound sterling or the Bank of England, and its fiscal powers remain constrained. Brexit, imposed contrary to the expressed democratic will of the Scottish electorate, has exacerbated this dependency by severing Scotland's access to the European Single Market and customs union.

This pattern of extractive economic governance and constrained policy autonomy parallels the economic dynamics that led to French Polynesia's recognition as a dependent territory.

3. Cultural Assimilation and Linguistic Marginalization

The cultural suppression and linguistic marginalization witnessed in both Scotland and French Polynesia constitute clear indicators of colonial subjugation. In both cases, the administering Powers have implemented systemic policies aimed at diluting indigenous national identities and replacing them with dominant cultural norms rooted in metropolitan frameworks.

In French Polynesia, the indigenous Tahitian and other Polynesian languages were historically displaced from public life through French colonial administration. French was institutionalized as the exclusive language of education, governance, and legal proceedings. Although recent reforms have introduced limited recognition of local cultures, the dominance of the French language and the cultural narrative shaped in metropolitan France remain unchallenged pillars of public life. Indigenous traditions continue to be framed within the context of folkloric expression rather than as integral components of national identity or legal equality.

In Scotland, the colonial assimilation project extended to both of its indigenous languages—Scottish Gaelic and Scots. Scottish Gaelic suffered centuries of decline, particularly following the Highland Clearances and the imposition of English as the language of government and law. The Scots language, which remains widely spoken across Lowland Scotland, has similarly been denied formal status. It is neither taught systematically in Scottish schools nor granted recognition across national institutions, media, or administrative structures. British state policies historically and contemporaneously privileged English, relegating Scots to a vernacular dialect and excluding it from the mechanisms of national authority and prestige.

These patterns of linguistic suppression are emblematic of cultural colonialism, as understood in postcolonial theory and affirmed by the United Nations in its interpretation of Resolution 1514 (XV). Language plays a fundamental role in national identity formation, historical memory, and the exercise of cultural self-determination. The marginalization of both Gaelic and Scots—as with Tahitian and other indigenous languages—reveals a deliberate effort to undermine the cultural sovereignty of these peoples and to entrench colonial hierarchies within the national consciousness.

The persistence of such policies, coupled with the absence of legal mechanisms for full self-government, reinforces the argument that both territories remain culturally subordinated. This condition not only violates international norms of self-determination but also substantiates their classification as Non-Self-Governing Territories under the criteria of continuing dependency.

4. Absence of Independent International Agency

Neither French Polynesia nor Scotland possesses the capacity to act as a sovereign entity in the international system:

- French Polynesia is represented abroad exclusively by the French Republic. It has no authority to conduct its own foreign policy, ratify treaties, or establish diplomatic relations. Its status as a “Pays d’outre-mer” does not extend to international legal personality.
- Scotland, likewise, is not recognized internationally as a separate subject of international law. It is barred from concluding treaties, establishing embassies, or participating in international negotiations in its own name. Its interests are subsumed within the foreign policy priorities of the United Kingdom.

This denial of international agency reinforces the reality of subordination and precludes either territory from independently exercising their right to self-determination, except through processes controlled by the administering Power.

V. Legal Conclusion and Recommendation

On the basis of the foregoing comparative analysis, it is the reasoned legal conclusion of Justice pour Tous Internationale (JPTi) that Scotland meets all substantive and procedural conditions for recognition as a Non-Self-Governing Territory (NSGT) under the applicable United Nations legal framework. The situation of Scotland closely parallels that of French Polynesia, which was re-inscribed as an NSGT by the General Assembly in Resolution 67/265 (2013) despite formal constitutional integration and administrative autonomy under French law.

In both territories:

- The original act of incorporation into the administering Power was non-consensual and lacked democratic legitimacy;
- The administering Power retains core sovereign functions, including control over defense, foreign affairs, economic policy, and constitutional arrangements;
- The people are denied effective access to self-determination through legally binding, internationally supervised mechanisms;
- Cultural, linguistic, and legal assimilation have been institutionalized through centuries of centralizing policies;
- There is an absence of international legal personality, precluding either territory from acting independently on the world stage.

Crucially, the precedent set by French Polynesia's re-inscription confirms two foundational principles:

1. That internal autonomy, however extensive, does not equate to the exercise of self-determination if the essential sovereign powers remain with the metropolitan state;
2. That the United Nations General Assembly possesses the unilateral authority to designate or re-inscribe a territory as non-self-governing, irrespective of the political consent of the administering Power.

These principles apply directly to the case of Scotland. The United Kingdom's ongoing refusal to permit a binding referendum on independence, even in the face of clear democratic mandates from Scotland's electorate and legislature, underscores the exhaustion of domestic legal and constitutional remedies. The Scottish people have no legal pathway under the current framework to freely and irrevocably determine their political status.

Accordingly, Justice pour Tous Internationale recommends that:

- Scotland be placed on the agenda of the Special Committee on Decolonization (C-24) during its June 2025 substantive session;
- The General Assembly be called upon to consider Scotland's situation under Resolutions 1514 (XV), 1541 (XV), and 67/265;
- The Secretariat be requested to prepare a working paper on Scotland, based on the evidence submitted, including its legal history, present dependency, and blocked democratic aspirations;
- Member States supportive of decolonization sponsor a draft resolution to inscribe Scotland on the list of NSGTs, thus opening the path to monitored and legitimate self-determination.

The current geopolitical climate requires the international community to act not only with principle, but with resolve. The continued denial of Scotland's right to determine its future violates the most fundamental tenets of the United Nations Charter and international human rights law. The General Assembly has the tools, the precedent, and the mandate to intervene—and in so doing, to extend to the people of Scotland the same dignity and rights afforded to all peoples under the law of nations.

Justice pour Tous Internationale stands ready to support the Committee in its deliberations and to provide all further documentation or clarifications required to advance this process.