

A CATHARSIS OF THE UNITED KINGDOM'S POLITICAL AND ECONOMIC LANDSCAPE: POST BREXIT

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Abstract

This paper provides a critical theoretical review of the political factors, which significantly influenced the June 2016 Brexit decision to leave the European Union (EU). This paper also provides a critical investigation of the likely impact of Brexit on certain social, political and economic aspects of the UK landscape. To this end the paper also analyses the effect EU policies on the economy, migration, sovereignty and democracy had on Brexit views. During the 2014 European Parliament elections, the UK Conservative Party haemorrhaged electoral support to the United Kingdom Independence Party (UKIP). During the 2016 Brexit Referendum campaign, the ruling elite had an unfounded expectation that UK citizens would vote to remain in the EU. Under the policy vacuum of no change, the political mantra of UKIP became appealing to an increasing majority in the UK. The failure to ensure that UK citizens were informed of the finalised EU-UK Brexit deal before the referendum took place (as indicated in David Cameron's 2013 Bloomberg speech) will prove to be telling. By August 2018, the rationale that a second referendum should be held was overwhelming. The UK population will experience many of the significant elements of the political threats, which were made during 'project fear'. The reality of post Brexit for many UK people will be quite different to the panacea they envisaged.

Keywords: *Brexit, second referendum, EU agencification, UK economy, EU migration*

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BİRLEŞİK KRALLIK SİYASİ VE EKONOMİK MANZARASINDA BİR KATARSİS: BREXIT SONRASI

Öz

Bu makale, Haziran 2016 Birleşik Krallık'ın (BK) Avrupa Birliği'nden (AB) ayrılma kararını büyük ölçüde şekillendiren siyasi faktörlerin eleştirel teorik bir tetkikini sağlamaktadır. Bu makale ayrıca Brexit'in, BK'nin belirli sosyal, siyasi ve ekonomik özellikleri üzerindeki muhtemel etkilerinin eleştirel bir sorgulamasını da sağlamaktadır. Bu amaçla makale AB'nin ekonomi, göç, egemenlik ve demokrasi ile ilgili politikalarının, Brexit'le ilgili görüşleri nasıl etkilediğini de incelemektedir. 2014 Avrupa Parlamentosu seçimleri esnasında Muhafazakâr Parti seçmen desteğini Birleşik Krallık Bağımsızlık Partisi'ne (UKIP) kapturarak kan kaybetmekteydi. 2016 Brexit Referendum kampanyası sırasında, yönetici elit BK vatandaşlarının AB'de kalma yönünde oy kullanacağına dair temelsiz bir beklenti içindeydiler. Değişimsizliğin politika boşluğunda, UKIP'in siyasi mantrası BK'de artan bir çoğunluğa daha çekici gelmekteydi. David Cameron'un 2013 Bloomberg konuşmasında belirttiği gibi BK vatandaşlarının referandum öncesinde son hali verilmiş bir AB-BK Brexit anlaşması hakkında bilgilendirilmesinin sağlanmasındaki başarısızlık kendini çarpıcı bir şekilde belli edecektir. 2018 Ağustosuna itibarıyla ikinci referandumun yapılması gerektiğine dair gerekçe büyük yankı bulmaktadır. BK halkı 'korku projesi' esnasında yapılan siyasi tehditlerin çoğu önemli unsurunu tecrübe edecektir. Brexit sonrası gerçeği pek çok BK vatandaşı için tasavvur ettikleri mucizevi çözümden epey farklı olacaktır.

Anahtar Kelimeler: *Brexit, ikinci referandum, AB ajanslaşması, BK ekonomisi, AB ve göç.*

Introduction

This paper borrows heavily from Swales's (2016) 'Understanding the Leave vote' post Brexit study, which discovered that there are three common Brexit themes. These three themes are the UK economy, UK immigration, UK sovereignty and democracy. The latter two themes were predominantly coupled together as one interlinked issue.

The literature review shows that these three Brexit themes were present in most of the items considered. The literature review was conducted initially by a number of internet searches. The search questions used to locate literature sources included: What are the reasons why the UK voted for Brexit? Why did UK citizens want to leave the European Union (EU)? Do you know who your

MEP (Member of the European Parliament) is? Are there any regulatory authorities regarding the activities of EU agencies? What will happen to the value of the UK currency, employment, food, fuel and property prices post Brexit? This list of generic questions was devised from issues which had been discussed in news and current affairs programs available in the UK. This approach captured numerous public polls, policy studies, stakeholder surveys and comments from left, right and centrist political parties.

In addition, there is analysis of the main issues which influenced the Brexit debate, since the UK triggered Article 50 on 29 March 2017. For example, the UK General Election in June 2017 producing a hung parliament, resulting in the Northern Ireland based Democratic Unionist Party (DUP) now holding the balance of power in Westminster. Scotland's disenchantment at the prospect of being forced out of the EU, when the majority of their population voted to remain. Northern Ireland's dismay concerning what happens to the border between Ireland and NI, now the UK is scheduled to leave the EU. There are similar concerns between NI and Ireland, regarding the essential continuation of the hard fought Good Friday agreement.

The critical theoretical review details UK people's perception of the economy, immigration and sovereignty and what people wanted for the future (Joint Council for the Welfare of Immigrants, 2017: 4). There is analysis of a growing dissatisfaction with the apparent direction of travel of the EU. A sense of frustration driven by a fear of being forced into a form of European integration, which many UK people did not want. Growing dissatisfaction transformed into increased anti-EU sentiment, manifested in the form that a majority of UK citizens believed they would be better off leaving the EU. This paper provides a counter-narrative to the anti-EU sentiment, which was not fully discussed during the Brexit debate. This paper will provide a critical analysis of various aspects of the UK economy, immigration and sovereignty, relative to the EU. Information from the critical analysis will provide a detailed description of the UK landscape post Brexit. The UK population were simply not informed how complicated a process it will be to leave the EU. EU-UK Brexit negotiations up to August 2018 have indicated that, if the UK leaves the EU, other countries (e.g. China) may introduce tariffs on UK exports higher than EU tariffs. Similarly, negotiations have revealed that the remaining members of the EU won't agree to the UK being able to 'pick and mix' a bespoke deal (Boffey et al, 2018). This reality, not fully defined until early March 2018, clarifies that certain strands of what have now become UK exports, will not be subject to differing EU arrangements. The EU have been quite clear that the UK can't cherry pick and have twin-speed two-tier arrangements regarding e.g., London's financial services exports. The Brexit policy position of the remaining 27 EU members in late May 2018 will have a

profound effect on the UK landscape post-Brexit (Bachtler and Begg, 2017: 754) considerations such as these strengthen the case for a second Brexit referendum.

Against this background, this paper discusses two substantive questions. To what extent are the epistemic community aware that UK Brexit represents a potential existential threat to both the EU and the UK? Is the UK politically ready and able to provide pragmatic solutions to compensate for the societal deficit their citizens will likely face post Brexit? The paper is presented in five sections. The first section, 'Difficult negotiations assured', provides the reader with an explanation why the EU-UK Brexit discussions will prove difficult for both parties. Policy drivers are discussed to help delineate Brexit differences of emphasis between the EU and the UK. The first section is divided into three sub-headings, each presenting the three main Brexit themes earlier mentioned. These themes together represent three important areas of the post Brexit challenge to the UK. Various aspects of the UK economy are discussed. Additional arguments are developed throughout the discussion paper, which help to describe how the UK will be affected during the post Brexit period. How immigration affected the Brexit campaign is discussed. The issue of people's views of national identity are introduced, as well as the effect of UKIP on the Brexit narrative (Clarke et al, 2017: 105). UK sovereignty and democracy within the EU is discussed. The EU has created a number of agencies, which subsequently have formulated and implemented policies not authorised by the European Parliament (EP). A number of EU member states' populations, particularly in the UK, are critical of EU agencies. There is analysis of how various EU agencies are perceived to operate, with little EU citizenship buy-in, governance, regulatory oversight or accountability.

Section two discusses how the European Court of Justice (ECJ) is viewed in the UK. A significant proportion of the UK citizenship perceive the ECJ as an agency which undermines the sovereignty of the UK legislature. There is also analysis of a UK legal paradox which has arisen, due to the Brexit process. Section three analyses the effect of Brexit on Scotland and Northern Ireland (NI), and during a UK hung parliament and examines how political events since the Brexit Referendum could thwart Brexit altogether. Section four considers the rationale behind the view there should be a second Brexit referendum. Section four describes how people have discovered that issues which should have been considered during the Brexit campaign were overlooked: a primary example being the border arrangements between Northern Ireland, part of the UK and Ireland, an EU member state. Other examples are the Brexit Referendum taking place before it being established whether the UK will be allowed to continue to participate in the European Galileo space project. Similarly, after Brexit, will the UK still be able to utilise European Union arrest

warrants? The paper concludes in section five by providing a conceptual review of the UK's social, political and economic landscape during post Brexit. The effect of not having a second referendum comes to the fore. Explanation is given as to why the reality of post Brexit, will be very different to what people imagined. The conclusion provides a review of the theoretical contributions of the paper.

Difficult Brexit Negotiations Assured

On the 23 June 2016, the United Kingdom voted to leave the European Union, with 17.4 million people voting leave and 16.1 million voting remain (equivalent to 51.9% and 48.1%).

(Swales, 2016: 4)

The UK/British decision to leave the EU (commonly known as Brexit) is proceeding, having surmounted numerous political obstacles. Numerous commentators have been very critical of Brexit for a variety of reasons. For example, the narrow margin of 52% of the electorate being in favour of Brexit, represented 37% of the eligible vote (Economist Online, 2017; Goodwin, 2016). Fears were raised before the Brexit referendum that the EU itself would be perceived to be weakened by the UK departure. In turn EU political observers predicted that EU fears of the effect of Brexit, could create political, economic and institutional difficulties for the UK (Archick, 2018: 1; Lavery, 2017: 42). Brexit has created serious problems for the EU, manifest in the main as the existential threat of 'contagion' (Patel and Reh, 2016: 5).

The Brexit decision has created an EU imperative that the UK should not be perceived as being rewarded for choosing to leave the EU. The UK could be viewed as having garnered a better deal after Brexit, compared to their position before leaving the EU (HM Treasury 2016: 11). For the EU this could have serious consequences, other EU member states might find political calls to follow the UK's path difficult to resist. The Brexit could provide the necessary impetus to create a 'two-tier Union', consisting of 'the EU's 'ins' and 'outs' (Lord, 2017: 10). Robin Niblett (2017) describes this possible eventuality of a twin-speed Europe, as a "regulatory layer cake". In the period after Brexit, the remaining 27 EU member states could perceive the UK to be thriving. Some of the EU states might begin to question the validity of continued EU membership. If the UK becomes a relatively successful beacon after Brexit, the benefits of being an EU member state could be viewed by others as illusory. Many believe that the EU will take "a tough line in Brexit negotiations, in part to discourage other member states and euroskeptic publics from contemplating a break with the EU that would further fracture the bloc" (Archick, 2018: 13). Realistically EU Brexit negotiators simply can't allow the UK to have too favourable terms after divorce from the EU. This policy driver made negotiation on critical Brexit issues e.g. legislation, trade, regulations, EURATOM, migration and

access to EU airspace difficult. There could be a clamour to leave the EU, if it is perceived that the UK has become better off out than in. Such an event would be akin to a run on a nation state's sovereign currency, capital flight causing financial and political instability. The EU could be denuded, no longer being seen as a safe haven: no longer a political, social and economic union of benefit to the remaining 27 member states; as a club that other nation states, some of who are at the EU candidacy stage, might no longer wish to join. At the end of 2017 there were five other EU candidate countries who had active accession bids. These are Albania, Macedonia, Montenegro, Serbia and Turkey (Archick, 2018: 6).

A general consensus of EU policy failure from the epistemic community could have negative consequences for the EU project in other ways. The Brexit decision could be perceived as a political catalyst which precipitates the existential threat of contagion. Thus Brexit represents a serious risk, which could extinguish the UK and/or the EU's very existence (Lord, 2017: 2). Patel and Reh's (2016: 4) briefing paper underlines some of the other issues that the EU must consider regarding Brexit. Patel and Reh's (2016: 1) observations act to identify why the UK's political economic landscape post Brexit, may not match expectations.

The evidence indicates that:

In deciding its stance towards the negotiation of Brexit terms, the EU would be drawn between the politics of avoiding a 'contagion effect' and the economic imperative of securing a quick and favourable deal for Britain.

In the short term, while withdrawal is negotiated, the UK might choose to disengage from EU decision-making, with potentially important policy effects.

In the long term, Brexit will change the EU's balance of power. It is particularly likely to strengthen protectionist forces and social democrats. Germany's position could also be strengthened.

Brexit is likely to undermine the EU's ability to become a leading global actor.

(Patel and Reh, 2016: 1)

From the Brexit vote 23 June 2016 to early March 2018, Brexit negotiations have been very protracted and difficult. As discussed earlier, politically the EU is already coming under increased pressure to justify its existence, the UK (one of the Big Three EU member states) having chosen to go it alone. If UK citizens are perceived to have better economic living standards, internal control of their national borders, and independence from EU regulations, the EU will have searching questions to answer. Patel and Reh's (2016) study, explains how

the EU has competing policy concerns, which act to make the Brexit negotiations difficult. The primary consideration appears to be the threat of contagion, that European integration will stall if the UK prospers outside of the EU. There is an increased risk of other EU member states wanting to negotiate their own individual bespoke arrangements with the EU. Such member states can deliver the threat of leaving the EU, if no such agreement can be reached.

The Economy (A UK Brexit Causal Factor)

Swales (2016) informs us that there were three main issues which UK people considered, when they voted in the Brexit referendum. These issues were ‘the economy (21%), immigration (20%) and sovereignty (17%)’ (Swales, 2016: 13). Breinlich et al’ (2017) study informs us UK sterling depreciated by 11% against the US dollar and 8% against the euro. This was in the first few days after Brexit vote (Breinlich et al, 2017: 2). There is a large body of work analysing the likely future effect of Brexit on the UK economy (See for example Dhingra et al, 2017: 4; HM Treasury, 2016: 20). Within this literature there is a wide consensus that the UK economy will shrink during the post Brexit stage. This will reduce UK households’ living standards during that period (McCombie and Spreafico, 2017: 5). The Bank of England’s (HM Treasury, 2016) Monetary Policy Committee are independent of the UK government. They were quite clear in their 13 April 2016 assessment of the UK’s likely economic fortune in a post Brexit situation. “Such a vote might result in an extended period of uncertainty about the economic outlook, including about the prospects for export growth. This uncertainty would be likely to push down on demand in the short run” (HM Treasury, 2016: 21). Dhingra et al’ (2017) study details the likely effect the Brexit is expected to have on future trade. They have analysed how realistically bilateral trade agreements tariffs would work, including comparing with Norway, Switzerland, Turkey and Canada. One of Dhingra et al (2017) findings is that both the UK trade and its welfare system will suffer losses after Brexit.

The welfare loss from Brexit is obtained by comparing the welfare when the UK remains a member of the EU with welfare following Brexit. We find that increases in bilateral tariffs and non-tariff barriers (NTBs) between the UK and the EU and the exclusion of the UK from future EU integration leads to a fall in UK welfare even after accounting for the savings the UK makes from lower fiscal transfers to the EU. The estimated welfare losses range from – 1.3% in the optimistic soft Brexit scenario to -2.7% in the pessimistic hard Brexit scenario. We carry out a large number of robustness checks based on alternative assumptions regarding the post-Brexit EU-UK trade deal. In all cases Brexit reduces the welfare of the average citizen.

(Dhingra et al, 2017: 3)

Dhingra et al (2017) describe how the UK economy post Brexit will be adversely affected. Social protection welfare payments will be lower, the UK no longer having access to various EU social fund income. There is a risk of

trade war if the UK, now a non-EU country, is seen as a threat to EU exports. UK goods could be the subject of protectionist punitive EU trade tariffs.

The Brexit will have a profound economic effect on the agricultural sector in the long term. Brexit will increase UK food prices throughout the bulk of the post Brexit period. The EU Common Agricultural Policy (CAP) will have been abandoned or radically changed, compared to the end of 2017. Ian Mitchell (2017) provide us with a full description of the CAP. The CAP is intended to provide a level playing field between EU farmers, to reduce market price distortions and farm food policy failures. The CAP should act in a manner which does not incentivize the overproduction of unwanted farm food products (Mitchell, 2017: 2). The Institute for Government (IfG, 2017) mirrors Mitchell's (2017) study in detailing the CAP. The IfG online (2017) also describe the political policy drivers behind the CAP remit.

Article 39 of the European Union Treaty sets out the specific objectives of the CAP:

1. The objectives of the common agricultural policy should be:
 - (a) to increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour;
 - (b) thus to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;
 - (c) to stabilize markets;
 - (d) to ensure the availability of supplies;
 - (e) to ensure supplies reach consumers at reasonable prices

(Institute for Government, 2017; European Union, 2012)

The fact that “a majority of farmers voted for Brexit” (Helm, 2017), may seem surprising, as some observers say 55% of the UK agricultural sector income is from CAP payments. Helm (2017) argues that CAP subsidies act to obscure the reality that UK farmers are inefficient and unproductive and predicts that unless the UK negotiates favourable free trade agreements, the UK agricultural sector will lose out economically. Uncompetitive UK farmers will no longer be subsidized by CAP payments, whilst conducting international trade in global markets during the post Brexit period.

The Dhingra et al (2017) study and the Erken et al (2017) study introduce an economic commonality. Both these studies analyse the likely effects of Brexit

on the UK economy, after a ‘hard Brexit’ or a ‘soft Brexit’¹ (Dhingra et al, 2017: 2; Erken et al, 2017: 5). Erken et al (2017) discusses a third strand, a sort of halfway house between soft and hard Brexit. In this third option, the UK has finalised a free trade agreement with the EU after Brexit. However, the UK is no longer a member of the European internal single market, or the customs union. Post Brexit the UK will be at a competitive disadvantage with EU member states, who will benefit internally from frictionless borders. Erken et al’ (2017: 10) study inform us that ‘Britain’s exit from the EU comes at a cost.’ Erken et al (2017) deliver a useful summary, which details the manner in which the UK will be economically disadvantaged post Brexit. In precis, after Brexit the UK economy will face a lengthy economic downturn due to increased costs from trade barriers rising; lower foreign direct investment (FDI), decreasing trade with the EU generally; labour force shrinkage resulting in higher unemployment; consumer prices rising, so higher inflation; real wages will lag behind (Erken et al, 2017: 10).

Immigration (A UK Brexit Causal Factor)

Immigration was a key factor in the Brexit decision to choose to leave the EU (Shipman, 2016: 581). Chris Bruni-Lowe, a staunch supporter of UKIP said “The public were clearly pissed off with immigration. It’s all about national momentum. All the campaigning in the world can’t prevent national moods” (Bruni-Lowe, cited in Shipman, 2016: 581). Changing the so called ‘simple’ referendum question from ‘yes or no’ to ‘remain or leave’, is also identified as being a significant contributory factor. What appeared to be a small innocuous issue, chimed with the political psyche of national identity, proved to be a significant facet of the immigration debate (Goodwin, 2016: 5; Schimmelfennig, 2016: 13). It now transpires that identity politics remained largely ignored by the mainstream political parties in the UK, up to the Brexit vote. Due to the mainstream political parties’ lack of awareness of how the electorate were feeling, the alternative offered by UKIP became increasingly more appealing (Barnard and Ludlow, 2017: 9; Glencross, 2017: 27). Swales (2016) is alert to the importance of identity politics. Swales (2016) argues, “There is also a role for ‘identity’ politics, where peoples’ votes are more driven by their perceived position in society and background characteristics” (Swales, 2016: 5). Shipman (2016: 586), Swales (2016: 7) and Halikiopoulou and Vlandas (2017: 453) all observed, people who identified themselves as being ‘English’, were more likely to be Brexit supporters.

There was a strong element of identity politics in the campaign. Pollsters found that 80% of people who identified themselves as ‘English’ voted to

¹ Both the Dhingra et al (2017) and the Erken et al (2017) studies used different interpretations of ‘soft Brexit’.

Leave. While 80% of those who called themselves 'British' voted remain. In talking about Turkey joining the EU and the downsides of immigration, the Leave campaign played on nationalism and uncovered some latent racism, but Stronger In's problem was that by failing to address these issues in an emphatic way their own leaders were more easily depicted as the elites responsible for the neglect of the communities left behind.

(Shipman, 2016: 586)

Nigel Farage was the UKIP party leader during the period prior to the Brexit referendum decision, 24 June 2016. Nigel Farage and his fellow UKIP members have proved to be both socially divisive and politically astute (Clarke et al, 2017: 5). UKIP have been able to create an image that many of the social problems the UK population faced, were in the main being caused by the EU immigration policy (Moore and Ramsay, 2017: 80). EU migration policies allow any EU citizen from any of the 28 EU member states (including the UK) to migrate from one EU state to another. EU migrants are able to access the social infrastructure of their EU destination to include employment, education, healthcare and housing immediately.

A politician who had more time for instinct than data, Farage was amongst the first in British politics to recognize not only the power of merging Euroscepticism with strident opposition to immigration, but also that potential support lay in Labour as well as Conservative areas.

(Goodwin, 2016)

35%, a significant minority of the UK Opposition Labour Party supporters, voted to leave. On the UK Government side, the Conservative Party experienced 61% of their supporters choosing to leave the EU, nearly double that of the Labour Party. This partial polarisation regarding the Brexit vote is having a significant political influence elsewhere. Jeremy Corbyn, Leader of the Labour Party, reiterated in several media interviews on January 2018, that the Labour Party do not officially support a second referendum (BBC, 2018). However there is a growing grassroots groundswell within Labour ranks, that the Labour Party should support a second referendum, once the finalised terms of leaving the EU become known (Bale et al, 2018: 20).

UKIP are deeply critical of EU migration policies for enabling such access, without taking into account economic differences between EU member states. UKIP are also concerned that many EU migrants have paid little tax to their choice of EU destination. EU citizens who have migrated receive equal access to the social infrastructure of the EU destination state. UKIP argue that EU migration policies are unfair to non-migrant EU citizens, who have made far higher financial contributions in their EU state. EU migrants are able to send home welfare payments, at a value higher than the average wage in their

original EU state. UKIP have been able to use these elements of EU migration policy to justify their opposition to UK membership of the EU.

UKIP managed to couple a hidden seam of usually ambivalent, non-voting electorate, with a growing swathe of far-right populism against mainstream political parties (Archick, 2018: 12). Swales's (2016) post Brexit study, 'Understanding the Leave vote', summarises turnout as a key factor which influenced the Brexit decision.

This strategy of appealing to blue-collar, white workers alongside older social conservatives, both of who felt left behind by economic transformation and profoundly anxious about the rapid cultural change that swirled around them, reaped dividends.

(Goodwin, 2016)

Swales (2016) informs us that: "Turnout favoured Leave"; "The vote split across traditional party lines"; and "Leave brought together a broad coalition of voters" (Swales, 2016: 2). Shipman (2016) harmonizes with Swales's (2016: 2) findings regarding turnout; "Turnout was 72 per cent, 6 points higher than at the general election" (Shipman, 2016: 585). There had been a sense of injustice within the UK, that richer EU member states subsidise EU citizens from lesser developed EU states. Nigel Farage and UKIP articulated those concerns, successfully convincing a significant proportion of the electorate that people were not being xenophobic or racist in objecting to EU migration policies.

Sovereignty (A UK Brexit Causal Factor)

Democracy is a core principle of EU legislation (Treaty of Lisbon, 2007, Title II, Article 8A.1). UK people feel there are numerous EU agencies and other agency-like bodies, which are not accountable to the UK electorate. There are six EU Executive agencies, who came into being by an official instrument of delegation created by the European Commission (EC) (European Commission, 2002 – Document 32003R0058, Council Regulation (EC) No 58/2003 of 19 December 2002). EU Executive agencies are established to carry out certain task in the management of EC Community programmes, as determined by the EC: "The Commission identifies the terms, criteria, parameters and procedures with which executive agencies must comply" (European Commission, 2003 - Eur-Lex I10120; see also Article 9.2 in Document 32003R0058). Clearly from the structure and remit the EC has given these new agencies, the EU agencification process is itself a social actor (Eckert, 2016: 505). Supervision of EU Executive agencies is by appointing a Director and a five person steering committee. A process of internal auditing is also in place, conducted by the European Court of Auditors and the European Anti-Fraud Office (OLAF). Some observers argue the EU Executive and other EU agencies are undemocratic, often pursuing their own agenda, not being

subject to sufficient governance or external scrutiny. Musa (2014: 321) describes such administrative malfunction as “the implementation deficit”. There does not appear to be any constitutional mechanism with which people, if they so choose, can challenge how these EU agencies deliver their service. Council Regulation (EC) 58/2003 which helps to create EU Executive agencies a process of agencification is silent on this issue. This demonstrates that EU agencies and agency-like bodies are not really under the control of the EU citizenship (Egeberg and Trondal, 2016: 6).

Many of the UK population were surprised to learn that various EU agencies have been ceded substantial regulatory powers which affect their lives: “EU agencies are distinct bodies from the EU institutions – separate legal entities set up to perform specific tasks under EU law” (European Union, 2017). There have been occasions when existing EU legislation was changed by EU agencies, without any discussion or agreement by MEPs in the European Parliament. Only when a dispute was examined through litigation did MEPs and EU citizens become informed that new EU regulations had come into force. For example an EU agency has decided that a licence is required to conduct a particular type of business; or changes in the manner in which a certain type of waste disposal is carried out have been introduced (Scholten, 2017: 1058). Some UK citizens had the perception that EU agencies were able to circumvent the scrutiny of democratically elected MEPs (CIVITAS, 2016: 2; Mason, 2016). UK people were annoyed that in practice, they had to involve the European Court of Justice (ECJ) to challenge an EU agency decision. UK citizens felt the sovereignty of their country was being undermined by many EU agencies and agency-like bodies, who they perceive to be unaccountable and therefore undemocratic. An increasing number of UK people felt “an ‘integration by stealth’ mode of integration” was being practiced by the EU, with little oversight (Scholten, 2017: 1057). EU agencies, e.g. the European Food Safety Authority (EFSA) or the European Court of Auditors (ECA), are perceived to facilitate European integration (de Bellis, 2017: 5; Monnet et al, 2014: 6-7).

Critical questions emerge from EU agencification, the proliferation of “agencified networks” (Kerber and Wendel, 2016: 4) such as: How closely aligned are EU policies to wider societal needs? How can the EU Executive have confidence that their approach to (e.g.) migration or climate change will meet the EU citizenship’s expectations? Does EU citizen participation feature in EU Executive governance considerations? Analysis of such critical questions is crucial to EU Executive policy formulation and any subsequent EU legislation. Consideration of these key issues are critical when discussing the EU’s approach to for example transport, nuclear energy or climate change. There has been a shift of the balance of power away from the sovereignty of EU

states and democratically elected MEPs towards EU agencies. A shift which identified, effective governance systems must be in place to ensure proper oversight of the effects of EU agencies (Dommett et al, 2016: 538; Musa, 2014: 322). UK citizens had no sense EU were listening to their concerns regarding EU agencies; or that the EU recognized and intended to address EU agencification, as a source of democratic deficit. This is one of the reasons for the Brexit vote. Politicians failed to realise that unaccountable EU agencies could cause EU contagion. European integration could be derailed by EU agencification, if a majority of other EU citizens perceive a lack of governance within the EU (Cheneval et al, 2015: 17; Egeberg and Trondal, 2016: 9).

Due to the Brexit decision the UK has effectively become a refuser country (Schimmelfennig, 2016: 4). A commonality with other nation states who can be considered to have acquired refuser country status e.g. Denmark, is that the UK mistrusts the EU for reasons of sovereignty and democracy. Numerous studies have identified that democratic deficit is a major part of dissatisfaction with the EU (See Archick, 2018: 12; Gordon, 2016: 341). Many people in the UK perceive a lack of democracy in the manner in which EU representatives can parachute into any EU individual member state and effectively govern that country. The EU interventions in Greece, Ireland, Portugal and Cyprus caused alarm in the UK and other parts of the EU (Archick, 2018: 4). There was vociferous opposition that UK citizens were required to financially bail out these EU member states during their respective periods of economic crises. These recent episodes in the EU's history have helped fuel a degree of Euroscepticism in the UK. Similarly, political observers in other EU member states, EU accession countries and non-EU nation states have also voiced concerns. Schimmelfennig's (2016) 'Graded Membership in the European Union' study, identifies and analyses the causal factors influencing European integration differentiation. Discussion of Euroscepticism is included in the study. Schimmelfennig (2016) demonstrates the likely level of political opposition to any agency, which is perceived to undermine the sovereignty and/or democracy of a member state.

Political Euroscepticism was already dominant in the 1992 Danish Referendum on Maastricht (Siune/Svensson 1993) and is a key component of 2016 Brexit campaign against "the permanent supremacy of EU law" and the "undemocratic, inflexible EU democracy." Swiss euroscepticism is strongly driven by the perceived threat of European integration to the political institutions and traditions of direct democracy, neutrality and federalism, which constitute the core of Switzerland's civic identity (Theiler 2004).

(Schimmelfennig, 2016: 5)

A Legal Paradox: The European Court of Justice

A major source of concern for a significant number of UK citizens are legal decisions made by the European Court of Justice (ECJ) (Gordon, 2016: 341). Many UK people chose Brexit, because they felt the ECJ undermines the sovereignty of the UK Houses of Parliament, which are the House of Commons and the House of Lords. Blitz (2017) provides a comprehensive summary of stakeholder views of the ECJ. Blitz's (2017) briefing informs us, Catherine Barnard is of the view there is a misunderstanding between various EU Courts. "Like other legal experts, she believes the Conservatives confuse the ECJ, with the European Court of Human Rights, a non-EU body that has made it hard for Britain to deport terror suspects" (Barnard, cited in Blitz, 2017). Catherine Barnard's observation suggests the perception the ECJ undermines UK sovereignty is to a large degree unfounded.

Sandra Fredman (2017) provides a legal analysis relevant to UK sovereignty and democracy. An unintended consequence of the Brexit decision is that it created a legal paradox. The case in point is *Miller v the UK Secretary of State for Exiting the European Union*. The nature of the legal arguments in this particular case should only be decided by the UK Courts, not an EU Court. The possibility that either side in the case could have appealed to the ECJ, remains an unresolved anomaly not enacted in practice. Continued litigation of *Miller v the UK Secretary of State for Brexit* litigation, could have delayed the formal activation of Article 50. The main thrust of Miller's legal arguments, upheld in the UK Supreme Court, is that Parliamentary sovereignty is crucial for the UK to ensure democracy: "It is therefore of immense importance that the Supreme Court in *Miller* stepped in to protect the power of parliament against the executive" (Fredman, 2017).

It is useful to consider the UK Conservative government's arguments including their perception of sovereignty and democracy, which were rejected by the UK Supreme Court. The UK government claimed the 'people had spoken' by choosing to leave the EU in the Brexit referendum. This, the government argued, gave the Executive, in practice the UK Conservative Cabinet, the power to trigger Article 50 by royal prerogative, without Parliamentary consent (Gordon, 2016: 338). The basic principle that people speak through their elected representative was not being upheld but sidestepped. As regards Brexit, Sandra Fredman (2017) explains, the State cannot use its executive powers to remove any existing rights of UK citizens. This, among other unintended by-products of the Brexit decision, are the reasons why Miller's litigation was successful. The principle that Parliament is sovereign, the people must have a say in how they are governed, was upheld. *Miller v the UK Brexit Secretary*, helped reinforce the view of the majority, who had voted to leave the EU.

The human rights implications of leaving the EU are profound. With neither a justiciable bill of rights, nor the binding nature of EU rights, Parliament remains the last custodian of human rights in the UK. The Supreme Court in *Miller*, far from exerting the power of an unelected judiciary, in fact reasserted the fundamental democratic principle of government through representative Parliament.

(Fredman, 2017)

The *Miller* case also represents a wasted opportunity. This constitutional law case provided fresh impetus and an opportunity for making the case that the UK should have made remaining in the EU (outside ECJ jurisdiction) a Brexit negotiations priority. However this was not done.

Scotland and Northern Ireland, and a UK Hung Parliament

Scotland and Northern Ireland (NI) delivered a majority vote against the UK leaving the EU (Gordon, 2016: 335; Paul | Weiss, 2016: 4). Scotland and Northern Ireland will be very vocal regarding any Brexit policy failure, which is perceived to be having an adverse effect on their people. This issue, which will be exacerbated at the post Brexit stage, represents an existential threat to the constituency of the UK. The populations of Scotland and Northern Ireland will have been forced out of the EU, by a fundamentally flawed process ‘foisted’ upon them (Glencross, 2017: 28). This impending situation has led to renewed calls in Scotland for a second Scottish Independence Referendum vote, which could result in Scotland leaving the UK (Gordon, 2016: 337). Similarly for Northern Ireland, there populous could also call for a referendum to become an independent nation state, the reason being their enforced withdrawal from the EU. This means that the Brexit decision could act as a policy driver, motivating the Northern Ireland people to choose to leave the UK. The reader is now informed, the Brexit decision has the potential to break up the UK altogether. Thus the post Brexit period poses an existential threat to the UK itself (Paul | Weiss, 2016: 14).

The Brexit situation for Northern Ireland became much more politically complex in June 2017, after the ruling Conservative Party called a General Election. The result of the UK General Election 9 June 2017 was a hung parliament. On 26 June 2017 the UK Conservative Party entered into a confidence and supply agreement with the Democratic Unionist Party (DUP), to be able to govern. The DUP’s prime political objective is to ensure that Northern Ireland remains a constituent part of the UK. The DUP face opposition in the form of the Sinn Fein political party, whose political goal is for Northern Ireland to be no longer part of the UK. Sinn Fein believe that Northern Ireland should become part of the rest of Ireland, themselves an independent EU member state. Alternatively Sinn Fein politically support that

Northern Ireland become their own independent nation state, who are not a constituent part of the UK.

The UK Conservative Party government needs the votes of the DUP's 10 MPs in order to get their legislative programme passed through Parliament. The fruits of the DUP/Conservative government electoral pact can be seen in the additional £1 billion, which has been earmarked for Northern Ireland. The DUP confidence and supply agreement had a significant effect upon the Brexit negotiations. In late November 2017, to the perception of numerous political observers, the DUP were able to assert their political will of the future of Northern Ireland. The DUP demonstrated that they could bring an end to the UK Conservative government, if they had agreed to any form of change in the status of the Northern Ireland. This could be manifest in regulatory changes in trade, or additional checks on the border with NI part of the UK, or the rest of Ireland, an EU member state (Paul | Weiss, 2016: 14). The DUP were quite clear, if they are not happy with the UK position regarding NI, the UK government could not rely on the DUP for their support (BBC Newsnight, 2018: 3m-17m). There is a further complication in the form of the EU backing of Ireland's position regarding its border with Northern Ireland. The EU's position strongly indicates that in the long term, Ireland's view will hold sway regarding Brexit. This is hardly surprising, given that any of the 27 individual EU member states can veto the Brexit deal if they are not happy. Ireland can veto the EU negotiated Brexit deal, if they feel their position is being undermined (Gordon, 2016: 337). This means that the UK Conservative Party is a hostage to fate, if and when they finalise a Brexit deal. These political policy drivers, which were at play from June 2017 onwards, will prove to be profound. Few people realised that it would not be possible to negotiate a mutually beneficial deal, which would advance the UK to any significant degree post Brexit, compared to pre Brexit.

The UK Brexit Process Needs a Second Referendum

In Lord's (2017) view the Brexit vote took place without people really knowing what they were voting for. He feels there has been a substantive democratic deficit in a decision which will have such a profound effect on UK citizens and proposes resolving the democratic deficit through the holding of a second referendum: "if a question as fundamental as the UK's exit from the EU is to be adequately defined by democratic process at all ... more than one referendum or election may be needed" (Lord, 2017: 9; see also Glencross, 2017: 29). This is a reasonable argument for a conclusion that for a decision withdrawing the UK from the EU to be legitimate, there needs to be a second referendum. UK citizens need to see and understand what the finalised negotiated Brexit agreement consists of, or that no deal has been reached. The UK population will then be able to give their informed consent as to whether to choose to leave or remain in the EU. Below is what David Cameron the UK Prime Minister said at his Bloomberg speech, 23 January 2013.

The next Conservative manifesto in 2015 will ask for a mandate from the British people for a Conservative government to negotiate a new settlement with our European partners in the next parliament. It will be a relationship with the single market at its heart. And when we have negotiated that new settlement, we will give the British people a referendum with a very simple in or out choice. To stay in the EU on these new terms, or come out altogether. It will be an in out referendum.

(David Cameron, cited in the Guardian Online: 23 January 2013)

The phrase ‘...when we have negotiated that new settlement’, is the active part of the commitment. David Cameron clearly intended that UK citizens should be aware of the terms of the ‘new settlement’, before making the decision to leave or remain in the EU. It is equally clear that this had not happened in the UK up to late May 2018. Effectively, ²Alistair Campbell argued the Brexit process was fundamentally flawed, unless there was a second referendum. UK citizens needed to know the terms of the finalised Brexit deal, before they could give their informed consent to choose to leave the EU (ITV interview, Peston on Sunday, 27 May 2018).

Low (2016) argues (as encapsulated in his article title) that ‘Brexit is not the will of the people – it never has been’. Media sources consistently demonstrated the majority of polls published during the Brexit campaign, indicated a narrow majority in favour of remain (Breinlich et al, 2017: 3; Clarke et al, 2017: 3; Halikiopoulou and Vlandas, 2017: 444; Lord, 2017: 8; Oliver, 2016). As a result a significant number of people made the assumption that UK citizens would vote to remain in the EU (Glencross, 2016: 3; Low, 2016). Low (2016) argues that the destination of those additional votes proved to be crucial. The people who contributed most to the increased electoral turnout were people who wanted to leave the EU (Swales, 2016: 19). People who had been energised mainly by UKIP to participate. Low informs us:

In fact, according to the first post-referendum poll (Ipsos/Newsnight, 29th June), those who did not vote were, by a ratio of 2-1, Remain supporters. It is well known that polls affect both turnout and voting, particularly when it looks as though a particular result is a foregone conclusion. It seems according to the post-referendum polls, that this was the case. More Remain than Leave supporters, who for whatever reason, found voting too difficult, chose the easier option not to vote, probably because they believed that Remain would win.

(Low, 2016)

² Alistair Campbell is a political aide and author, he was formerly Downing Street Press Secretary 1997-2000. Alistair Campbell then became Director of Communication for the UK Labour Party 2000-2003.

Low's (2016) work also makes a social policy contribution, being one of the earliest political commentators to call for a second Brexit referendum. Low (2016) also predicts that after Brexit the British pound will be devalued further, there will also be higher inflation and unemployment. Low (2016) indicates people weren't aware Brexit could precipitate a "drip-like movement of multinational companies out of the UK" (Low, 2016). The UK population's anger and disillusionment, will be deeply entrenched post Brexit. At this late stage, UK citizens will now realise there is no realistic prospect of a second referendum coming to their aid.

Conclusion

The real tragedy of post Brexit is that there was obviously a clear majority to remain within the EU in June 2016. What the UK MPs and MEPs should have done is to have worked together on a cross-party basis to renegotiate the Treaty of Rome (signed 25 March 1957). A cross-party working group negotiating with the EU on this remit, would have provided a better agreement for the UK population. David Cameron, UK Prime Minister immediately prior to the Brexit vote, managed to negotiate an individual deal with the EU in the past. The EU-UK special agreement 19 February 2016 gave the UK 'full membership of the single market'; without having any involvement in 'the single currency', or participation in 'the Schengen open border arrangement' (HM Treasury, 2016: 25). Swales's (2016) study using post Brexit data evidences the view, a majority of people wanted to "stay in the EU, but reduce its powers" (Swales, 2016: 4). Unfortunately, this is not what was offered to UK citizens; instead they were given a 'take it or leave it' referendum. The UK electorate had not seen anything bearing any resemblance to a negotiated Brexit final settlement before voting. This means UK citizens had no idea how leaving the EU would affect them in practice. Yet the political expectation at late July 2018, was that the result of the 23 June 2016 UK referendum is to be enacted at the end of March 2019.

Breinlich et al (2017: 3) observe that at the end of 2017, numerous questions regarding the economic, social, political situation in the UK after Brexit remained unanswered. A multi-level of UK stakeholders did not know if there were going to be any trade tariffs when conducting business with EU member states (Norton, 2017: 4); Or under what terms UK citizens would be able to fly to and from the EU, after Brexit (Chapman, 2017); Or who will fill many of the positions in the National Health Service (NHS) or the service industry, when migration decreases (REC, 2017: 37). Will areas of industrial decline experiencing high levels of social deprivation e.g. structural unemployment and poor health, have their funding protected after Brexit? The political uncertainty on these critical issues, underscores the policy vacuum which existed June 2016, in the event of a vote to leave the UK. A political policy vacuum which was still in place early August 2018. There is a growing expectation that the

UK will be at political and competitive disadvantage for a significant time, during the post Brexit period (Tell Cremades and Novak, 2017: 41). That is when the lack of clarity, the lack of foresight regarding the fundamentally flawed, unnecessary Brexit vote will hit home. The lack of democracy from EU agencies, will be replaced by UK born democratic deficit. Once Brexit has finally taken place, there will no external third party who UK citizens can approach to help resolve legal disputes. For example, a relaxation of the laws on human embryonic cells research, or the banning of free speech of an anti-government publication. I argue many people who voted for Brexit, will be wishing that a second referendum on the finalised deal had taken place (Gordon, 2016: 334). From an EU perspective the risk of political contagion is palpable. The UK must not be seen to have gained any advantage by leaving the EU. This policy driver was one of the main reasons why the EU-UK Brexit negotiations proved to be so difficult. The UK political and economic landscape post Brexit, will be a very bleak place for many low income, low educational attainment households. People now experiencing a different sense of change, one with little prospect of socio-economic prosperity (Breinlich et al, 2017: 11).

There is the possibility of some relief for the UK in the form of a Continental Partnership arrangement. The Bruegel Institute proposal is a blueprint, detailing how to approach future relations with the UK and other former EU member states. This Bruegel proposal provides the opportunity for the UK to participate in EU decisions after Brexit (Pisani-Ferry et al, 2016: 5). There would also be a Council of Ministers for former EU states. This decision making chamber would be able to amend draft EU legislation. In the Bruegel proposal, the Council of Ministers former EU states group, would not be able to insist their legislative amendments are implemented (Lord, 2017: 10). Niblett (2017) informs us that a proposal similar to the Bruegel Institute model was made by the UK. Such an idea which would govern the UK-EU economic relationship, was hinted at by UK Prime Minister Theresa May during her Florence speech, 22 September 2017 (Niblett, 2017). Niblett's (2017) study clearly demonstrates, the UK proposals were under consideration at the end of 2017.

Reflecting support for this approach, cabinet members have indicated that the UK would like to retain its membership in some key EU regulatory bodies that are supervised by the European Court of Justice, included in the areas of aviation, energy and telecommunications.

If the EU27 were to accept this sort of a framework, then the result would be the UK having a layered regulatory arrangement with the EU that goes far beyond the scope of the EU-Canada trade agreement, and that is more akin to Switzerland's current diverse set of treaties with the EU.

(Niblett, 2017)

The UK would be overly optimistic to believe that such proposals will come to their rescue, early in the post Brexit period. If some form of Bruegel Institute type model is agreed, implementation could be too late to prevent long-term economic damage to the UK. One reason for the non-appearance of a Bruegel type proposal in the final EU-UK Brexit deal, is the UK may have burnt her bridges. This concern was raised by Ed Miliband, Leader of the Labour Party and the UK Government Opposition 2010 to 2015 (Miliband, 2016). Still fresh from the difficult EU-UK Brexit negotiations, other EU member states might not be particularly anxious to engage with the UK. Any EU member state could choose to veto the Bruegel Institute proposal and other similar UK proposals. They could argue, former EU states who have chosen to leave, should not then subsequently be given a mechanism to participate as non-EU members. It is quite clear, post Brexit will be a very challenging period of uncertainty for many UK citizens, socially, economically and politically.

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