

The Future of the UK

Between Internal and
External Divisions



Edited by
Marius Guderjan

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Foreword

In the light of the British referendum on EU membership on 23 June, the Centre for British Studies of the Humboldt-Universität zu Berlin organised a series of public lectures on the future of the UK during the summer term 2016. Despite some forebodings, the outcome of the referendum still came as a harsh surprise. Brexit affects the Centre and its students professionally and personally. Whilst these are exciting times for scholars of British studies, we hope that our good relations to the UK can be maintained.

The lecture series allowed us to follow the recommendations of our advisory board to produce a publication on the recent political developments in British politics. This short book is based on the public talks of our lecture series.

As part of the KOSMOS Dialog 'Devolution in the UK', funded by the university's Future Concept through the Excellence Initiative, I was able to invite Paul Cairney, Neil McGarvey and Arjan Schakel to Berlin for the purpose of academic exchange. I would like to thank them for their input to my own research, as well as all speakers and correspondents for their talks and their insightful chapters. Special thanks go to Neil McGarvey for his encouragement to turn the lecture series into a book. Finally, I'd like to express my gratefulness to Sandra van Lente for designing the book, and Catherine Smith and Madalina Luca for their editorial support.

During most of the lecture series, the outcome of the referendum was not clear. Now the break with the European Union has become tangible and Scotland's break with United Kingdom has become topical again.

Although this publication has been highly responsive to the current developments, the conditions and implications of Brexit are constantly changing. Nonetheless, the book offers a set of concise overviews on the various internal and external division in British society and politics. It comments on causes and consequences of the referendum to provide explanations and some guidance for the interested follower of British and European politics.

Marius Guderjan, October 2016

Notes on Contributors

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Dr Neil McGarvey and Fraser Stewart, University of Strathclyde

Neil McGarvey is Associate Dean of the Humanities & Social Sciences Faculty at the University of Strathclyde, Glasgow. He has published widely in the field of local politics, Scottish politics and intergovernmental relations. Together with Paul Cairney he wrote the leading textbook on *Scottish Politics*. Fraser Stewart is a Politics & International Relations honours student and a video blogger and columnist for various Scottish political media outlets.

Prof Paul Cairney, University of Stirling

Paul Cairney is Professor of Politics and Public Policy, University of Stirling, UK. His research interests are in comparative public policy, including, policy theories, methods and Scottish politics. He is author for *Understanding Public Policy, Handbook of Complexity and Public Policy* (co-edited with Robert Geyer), *The Scottish Political System Since Devolution* and *Scottish Politics* (with Neil McGarvey).

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1. Between Internal and External Divisions

Marius Guderjan

[...] we believe in the Union, the precious, precious bond between England, Scotland, Wales and Northern Ireland [...] we believe in a union not just between the nations of the United Kingdom but between all of our citizens – every one of us – whoever we are and wherever we're from.

Theresa May, 7 July 2016

British EU Membership and the External Division

The relationship with the EU has always been uneasy and characterised by conflict since the first two applications of membership in the European Economic Community in 1961 and 1967 that were both vetoed by Charles de Gaulle. When, in 1973, the UK eventually was allowed to join the club, and people confirmed this subsequently in the first nationwide referendum in 1975, Britain signed up for an economic project and not for a political union. Hence, the 'honeymoon' did not last long. The Conservative party and Margaret Thatcher initially supported EU membership, but during the 1980s Euroscepticism grew in her party and subsequently in the

population. During her rule Thatcher became more hostile towards the European Community over disputes about British financial contributions and the reform of the Common Agriculture Policy.

British exceptionalism has been further underlined by opt-outs of major policy areas with every European treaty since Maastricht (except for the Nice Treaty). The UK did not join the Economic and Monetary Union in 1992, Justice and Home Affairs – since the Lisbon Treaty the Area of Freedom and Justice – the Schengen Area in 1997 and the Charter of Fundamental Rights of the European Union in 2007. Under Tony Blair the British Government adopted a more pro-active and cooperative approach to the EU. However, the UK, Blair was reluctant to promote a strong European outlook to avoid confrontations with the Eurosceptic media.

Even though David Cameron did not mean to take UK out of the EU, unintentionally he has led the UK to the ultimate opt-out. Hence, on the day after the referendum he announced his resignation as Prime Minister with the words 'I think the country requires fresh leadership to take it in this direction'. Looking at his record, until close to the referendum when he negotiated a 'better for the UK' and campaigned for Remain, he had done a good job in steering his country into Brexit.

When Cameron became Tory leader, he urged his party to stop 'banging on about Europe'. But his continuing concessions to the Eurosceptic wing of his party has kept the

issue alive and triggered further demands. In 2009, the Conservative Party withdrew itself from the European People's Party, which isolated the party in the European Parliament and damaged its influence over EU policies. After the Tories came to power in 2010, Government passed the European Union Act 2011, which foresees a nationwide referendum on further transfer of powers and future amendments of European Treaties.

In the same year, Cameron upset the majority of European leaders by vetoing the Fiscal Compact (formally the Treaty on Stability, Coordination, and Governance in the Economic and Monetary Union) in the European Council. In order to respond to the sovereign debt crisis, the Euro-states had to adopt the Fiscal Compact outside the existing treaty framework of the EU. Except for the UK, the Czech Republic and Croatia, which only joined the EU in 2013, all Member States ratified the Fiscal Compact. In his Bloomberg speech in 2013, Cameron claimed: 'I am not a British isolationist. I don't just want a better deal for Britain. I want a better deal for Europe too', but his actions had shown a different picture.

To unite his party and fight off UKIP, Cameron promised to negotiate better terms of EU membership and a referendum on British membership by the end of 2017. After his re-election in 2015, a referendum became unavoidable. Cameron called for a fairer, more flexible and more competitive EU, but, except for limiting immigration, he had been very vague on what kind of reforms he wanted.

Nonetheless, he had to deliver some results from negotiations with the EU that allowed him to campaign for Remain. His position in the referendum, he threatened, would depend on the concessions to Britain. During his diplomatic mission across Europe, European leaders were generally open to provide Cameron with a success that he could sell at home to his Eurosceptic backbenchers and to the people.

In February 2016, Cameron handed a listed four demands to Council President Donald Tusk: a four-year benefit freeze for EU-immigrants; a safeguard from decisions by Euro-insiders; economic competitiveness through cutting red-tape and negotiating new free-trade agreement with third parties; and an opt-out of the commitment to an 'ever closer union' and vetoing powers to national parliaments. Whilst Cameron was overall successful in the last three of his demands, with competitiveness being the least controversial, he was not given any concessions that would undermine the fundamental principle of the free movement of people. The best he got was an 'emergency brake' that restricts access of EU-immigrants to social benefits over a four-year period of time. However, Member States have to prove that the capacity of their welfare system are over-stretched, the European Council needs to decide on this matter in unanimity, and the brake only applies for a maximum of seven years, not 13 as originally demanded.

The deal that Cameron got during the European Summit on 18-19 February did not foresee substantial reforms or hand back powers to the UK. Without a clear vision for reforms that could be supported by all Member States, the concessions were largely symbolic and it had not been clear how relevant they were in practice. The deal was meagre but it allowed Cameron to position himself at the head of the Remain campaign. On 20 February, Government announced the referendum on British EU membership for 23 June. The result of that referendum is well known, across the UK 51.9 per cent voted for Leave and 48.1 per cent for Remain. Cameron's successor Theresa May has announced on 2 October 2016 that the British Government will trigger Article 50 of the Treaty of the European Union in March 2017 starting the official negotiations about the terms of Brexit.

The close result in the referendum has revealed a deep division in the British population. This divide is only to a limited extent about the different attitudes towards EU membership and regaining sovereignty. These issues have not been high in electorates priorities. Britain is divided across multiple dimensions – socially, geographically, ethnically and politically. The United Kingdom of 2016 is only united by name.

Socio-Economic and Geographic Divisions

Some commentators have pointed towards a division between outward looking modernists and traditionalists who long to return to a glorified past (Easton 2016), but the underlying social tensions are much deeper and more serious. An analysis of the referendum shows that young, educated and affluent people were by far more in favour for staying in the EU than older and more deprived voters (YouGov 2016). Young people were, however, less likely to enter the poll stations (BBC 2016).

A closer look at the referendum's geography also demonstrates that in England striving cities, like London, Manchester, Liverpool, Bristol and Leeds, voted to remain, whereas rural and suburban constituencies opted by a majority for Leave. It is not only the 'left behind' who voted for leave and one can make the case that market towns are particularly affine to conservatism and traditions. And yet, the referendum unravelled the economic cleavages between prosperous city regions and peripheral 'left-behind' places with little prospect of overcoming their desolation. South Yorkshire, Lincolnshire and Lancashire are among the poorest areas in North West Europe (Inequality Briefing 2014). Here, the leave vote was particularly high with 75.6 per cent in Boston and 73.6 per cent in South Holland (both Lincolnshire); 69.0 per cent in Doncaster, 68.3 per cent in Barnsley and 67.9 per cent in Rotherham (Yorkshire); 67.5 per cent in Blackpool, 66.6 per cent in Burnley and 66.2 per cent

in Hyndburn (Lancashire). Driving through these districts in the run up to the referendum, you could see the St George flag widely displayed expressing a desire to restore national pride in uncertain times.

While public investments have targeted metropolitan areas, austerity policies have been particular hard for local authorities that rely heavily on public spending. As chancellor of the exchequer, George Osborne, focused on strengthening cities likely to generate economic growth. Communities in particular need suffered disproportionately from the cuts of social benefits and the closure of leisure centres, libraries, museums and bus services. As one Leave supporter from Blackpool told the Guardian: 'It was nice to give the metropolitan elite a bit of a kicking. There's more to the UK than just central London.' (Pidd 2016)

The vote differed not only across urban and rural areas, the Southwest vis-à-vis the East and the North, even local communities are split into those who understand globalisation and European integration as an unprecedented opportunity to travel and advance and those lacking the capacities and mobility to enjoy this privilege. The external division, the inward looking mind-set, goes hand in hand with such internal divisions that have been a long time in the making. If you are young, middle class and graduated you were far more likely to support Remain than older members of the working class or the precariat. After the referendum, the UN Committee on Economic, Social and Cultural Rights

(2016) released a review expressing 'serious concern about the impact of regressive policies on the enjoyment of economic and social rights in the UK [...] the Committee concludes that austerity measures and social security reform breach the UK's international human rights obligations.' Disadvantaged and marginalised peoples, low income families, children, persons with disabilities, minority groups and single parent families are particularly affected by poverty. It is not only people without employment but the 'working poor' who suffer deprivation because the national minimum wage zero-hours contracts do not ensure a 'decent standard of living' (ibid.).

When in 2011 riots took place in London, Birmingham, Manchester, Liverpool and other cities, the UK Government did not engage in a sensitive debate on the socio-economic causes for the outbreaks, but instead, imposed harsh measures on the rioters. In her first speech as Prime Minister of the UK, Theresa May drew the right conclusion of the out vote by emphasising the need to build a more socially just Union. She recognises that 'if you're born poor you will die on average nine years earlier than others [...] if you're a white working class boy you're less likely than anybody else in Britain to go to university [...] You have a job, but you don't always have job security...You can just about manage, but you worry about the cost of living and getting your kids into a good school.' How May and her Government will put these realisations into effective policies remains to be seen. Whilst

she promised to protect worker's rights after Brexit, she also plans to allow the creation of new grammar schools which can choose their students and thereby neglect children from poorer households. The British economy faces tough times, which will make it difficult to invest in public welfare.

Ethnic Divisions

Among the 'left-behind' populist movements, like UKIP, gain ground by providing simple answers to complex questions. Both Nigel Farage's *Leave.EU* and the more moderate *Vote Leave*, supported by Boris Johnson, Michael Gove and Gisela Stuart, fought 'to take back control of our country', and primarily control of the borders. Prior to the referendum, limiting immigration had been a top priority for voters (Jordan 2015). The *Leave* campaign nurtured and exploited a hostile climate for immigrants particularly from eastern Europe and the Middle-East, but also for non-white communities that have lived in the UK for generations.

Labour MP Jo Cox who was not only compassionately supporting Remain but also the representative of an ethnically diverse constituency. She stood up for mutual tolerance and was engaged in fighting anti-Muslim attacks, which have risen by about 80 per cent in 2015. Her murder on 16 June 2016 by the right-wing extremist Thomas Mair, who shouted 'Britain First' as he attacked Cox, left many in shock

and led to the suspension of campaigning for two days, but it did not stop the xenophobic sentiment among the Leave campaign. An hour before her death, UKIP leader Nigel Farage launched the infamous *Breaking Point* poster that warned of the stream of Syrian refugees by stating 'we must break free of the EU and take back control of our borders'.

In most cases it may be wrong to accuse Leave voters of xenophobia – older generations of immigrants also support the stop of further intakes. Some areas have experienced a rapidly changing demography and severe economic and cultural challenges since citizens from East European countries became fully eligible to the Free Movement of People in 2004. Except for the UK, Ireland and Sweden, all other Member States temporarily restricted labour market access for new members. The native-immigrant divide is, nonetheless, real and many immigrants feel more aware of their outsider status now. The nasty tone of the Leave camp towards the issue of immigration has encouraged more outspoken xenophobia. Shortly after the referendum through England there have numerous reports of verbal abuse, xenophobic social media commentary, anti-migrant leaflets and a small number of physical attacks on Muslim, black and Asian immigrants. In the first week after the referendum, the police reported 331 hate crimes, five times as many as the weekly average of 63 (Parveen and Sherwood 2016).

Although it is not yet clear how Brexit will affect the status of EU and non-EU immigrants in the UK, limiting immigration is a priority in the Government's negotiation with the EU. If Britain kept access in the Single Market as part of the European Economic Area, like Iceland, Lichtenstein, Norway, it would have to accept the principle of free movement of people. Various UK ministers, including Home Secretary, Amber Rudd, however, have suggested measures that would discriminate foreign workers in British companies, such as a 'naming and shaming' companies with the highest proportion of non-British staff. The UK has in the past served as a model for multiculturalism, anti-discrimination and integrative policies. This image is under threat, and it will require clear political messages speaking out for ethnic diversity to fight xenophobia and preserve Britain's reputation as a liberal society.

Political Divisions

The vote to leave the EU was driven by internal not by external politics. People who usually stay absent from the polling station took the unique opportunity to 'give the Government a kick', and not only the Government but the political class as a whole. Their vote was guided by anger about elitist politicians, disconnected from their representative, responsible for industrial and welfare policies that put large parts of the working class in precarious

situations. The referendum showed that even Labour cannot rely on its working class support anymore. Both major parties, Conservatives and Labour, share the blame for the distrust in politics and the turn to populist parties with UKIP leading the way.

Pauline Schnapper's chapter on the crisis of British democracy provides more insights into the disenfranchisement of the people with their political leaders and the decline of political trust among the population. She also addresses the effects of disproportional representation through the first-past-the-post election system in the UK Parliament. The mis- or underrepresentation of large social groups has also fostered the division of the Union of England, Scotland, Wales and Northern Ireland. Supporters of Scottish independence argue that Conservative-led Governments never had the democratic legitimacy to rule over Scotland.

With the EU referendum, the crisis of the Union takes on a new dynamic. Even though you may argue in favour for Scotland being significantly more Europhile than the rest of the UK, or whether the Scottish working classes are more loyal to the Scottish National Party (SNP), Scottish residents still voted predominantly to remain and are now faced with the real chance of being dragged out of the EU by England (and Wales). Whilst Neil McGarvey and Fraser Stewart highlight the difference of referendums on Scottish independence and the EU membership and explain why the Leave campaign had little resonance in Scotland, the

contribution of Paul Cairney elaborates on the prospect for Scotland's future in the Union. In his chapter, Arjan Schakel suggests that Scottish independence is unlikely and a stronger institutionalisation of shared rule would bind the devolved nations into a more stable settlement, instead of them drifting further apart.

The referendum also raised a set of serious issues in Northern Ireland. The probability of an independent Northern Ireland – or even a reintegration into the Republic of Ireland – is not the same as for Scotland. Serious challenges will emerge for the still fragile peace process and the relations between the UK and the Southern and Northern parts of the Irish isle. These are thoroughly discussed in Paul Carmichael's chapter.

In addition to serious issues of devolution and political misrepresentation, it is important to understand that divisions are entrenched in the culture of British politics. The underlying dynamic of Westminster democracy is competition (Sturm 2015, 65) promoting a 'winner takes it all' mentality that lacks in ambition to compromise and an adversarial political culture that is rather country-dividing than country-uniting (King 2001). In this sense, the democratic understanding in British politics is a limited one, based on a top-down view in which governments are decisive not responsive. As Marsh et al. 2003 (312) put it: 'the British political tradition emphasizes the idea that a responsible government is one which is willing and able to take strong, decisive, necessary action, even if that action is opposed by a

majority of the population.’ Unlike consensus-oriented democracies, the UK’s majoritarian system does not provide a protection for minorities. This principle also applies for the EU referendum after which a slight majority of 52 per cent get their will at the expense of 48 per cent of the voters – and others who could or have not voted.

The pluralistic election system produces an adversarial style of debate unable to reconcile different interests and needs in society. All devolved assemblies are elected through a mix of majoritarian and proportional representation that allows smaller parties to establish themselves and requires the devolved executives to cooperate with other parliamentary groups. In the UK Parliament, however, the majority party has no incentive to find consensus with other political forces but is mostly concerned about serving a small share of the population who voted for them. I am not suggesting that this phenomenon is unknown to other countries but, unlike many modern democracies, British politics is still strongly characterised by hoarding power rather than sharing it (King 2001). Hence, a system of government that, for a long time, provided strong leadership through clear parliamentary majorities has become the source of social and political incoherence and instability.

Adversarial politics do not serve well for a reasonable exchange of arguments. The referendum campaign has been a particularly bad example of a nasty political discussion not guided by facts but by exaggerations and lies. One of the

most infamous untruths was printed in large letters on a red campaign bus, claiming that the UK would 'send the EU £350 million a week' that could be used for the National Health Service. Shortly after the referendum leading Leave campaigners distanced themselves from this claim, along with promises to reduce immigration significantly. The mutual accusations of politicians in both camps has caused further damage to the levels of political trust. When the people realise that Brexit is not some miraculous cure to all their problems, and the promises made will not substantialise as expected, their disillusion will manifest or grow further.

It is striking that neither Government nor the Leave side had any plan for the case of Brexit. What good is sovereignty when nobody wants to take responsibility? Cameron, the long-term facilitator of the referendum, resigned, Farage 'wanted his life back', and it is doubtful whether Boris Johnson ever really wanted to leave the EU. Although the Conservative party managed to find a new Prime Minister shortly after Cameron stepped down, the game Boris Johnson and Michael Gove played became obvious when the latter withdrew his support for Johnson's leadership ambitions and stood himself for elections. As Nick Cohen (2016) put it, 'there are liars and then there's Boris Johnson and Michael Gove'; suggesting that both do politics the same way, namely they produce headlines in their former careers as journalists: getting public attention through blunt

statements without caring about the consequences for the people they are meant to represent.

Owen Jones (2014) offers a comprehensive account of elitism in British politics. Cameron and Johnson both went to Eton College, a cradle for future Prime Ministers and the UK's elite. In its privileged, competitive environment, students learn to treat life as a game serving their individualist interests. This may explain why Cameron took a gamble with such a high stake when he gave the British a referendum on EU membership. Johnson, a man who has not shied away from producing false news as a journalist and from insulting politicians from other states, did become Prime Minister but Johnson is now representing Britain as the Foreign Secretary.

At the same time, the internal fight in the Labour party between its socialist wing, behind Jeremy Corbyn, and its right-wing is ongoing and fierce. In a coup attempt shortly after the referendum, two-thirds of Corbyn's shadow cabinet stepped down and three-quarters of Labour MPs refused him their confidence. Instead of holding Government into account and providing orientation in uncertain times, Labour is occupied by its own internal divide. No sign of re-building political trust can be expected from a party in such a desolate shape.

There is presently no party in sight to seriously challenge the Conservatives for power, and it seems unlikely that this will change in the foreseeable future. Even the majoritarian,

bipolar logic of the Westminster democracy is thus temporarily suspended. Without a meaningful opposition no one can hold the Government to account for its actions. It is unlikely that the Government will introduce a new system of proportional representation that undermine its claim to power. Theresa May (7 July 2016) is aware that 'If you're from an ordinary working class family, life is much harder than many people in Westminster realise.' Time will show what policies she will initiate to overcome the cleavage between rulers and the ruled, and if she will act in the interest of a minority or a majority of the UK. The Westminster system does not, however, promote consensus finding and an adversarial political culture does not change overnight.

The inability of UK politicians to make compromises have been an ongoing problem in British relations with the EU, particularly under Conservative Governments. This has undermined the country's role in Europe and has eventually contributed to the external division. It will remain to be seen how Theresa May and her cabinet will manage to negotiate a withdrawal agreement beneficial for the British economy, whilst at the same time pleasing the Eurosceptic forces in her party and in the country. Whereas she modestly supported Remain and may take a pragmatic approach in the discussions to come, Boris Johnson, Foreign Secretary, and David Davies, Secretary of State for Exiting the European Union, both supported Leave and may be not as cooperative. Sandra Schwindenhammer's contribution to this book

presents an insightful outlook on the procedures and challenges following a British notification on withdrawal from the EU under Article 50 TEU.

Conclusion

Large parts of the British population and its leaders have never been fully committed to pooling sovereignty and integrating with other Member States beyond economic cooperation. Nonetheless, the reasons that drove so many Brits to vote Leave in the referendum were less about a dissatisfaction with the EU but the expression of socio-economic frustration, scapegoating immigrants and ethnic minorities, deep political distrust and anger towards a political elite that does not represent a high share of society.

The referendum has made these divisions more obvious and triggered a public debate, which will most likely not disappear after the UK has left the EU. On the contrary, austerity measures have already widened the gap between the deprived and the affluent, and immediately after referendum markets responded negatively – the Pound Sterling lost in value and stock prices fell. It is not clear yet how Brexit will impact on trade relations, foreign investments and manufacturers, the UK service industry, research funds for universities and industry, and London's global financial centre, but it is likely that Britain will undergo a 'self-inflicted

recession', or 'DIY recession' in Osborne's words. More expensive imports will cause higher inflation and continuing decline of real incomes. And what about the EU immigrants that have made a net contribution of £25billion (Dustmann and Frattini 2013) to public finances between 2001 and 2011 and helped to keep many public services going, including the NHS? Their loss would mean further economic decline and challenge the UK's welfare systems, and thereby increase social inequalities and tensions.

When, how and at what costs the break of both Unions will come remains to be seen. We now know that the UK Government wants to trigger Article 50 in spring 2017 initiating a two-year negotiation phase after which the UK will cease being a member of the EU. At the moment, it looks like a 'hard Brexit' that favour control of immigration over access to the Single Market – prospects have further devaluated the Pound. Theresa May is also planning to introduce a Great Repeal Bill to remove the 1972 European Communities Act which will 'restore' the UK's sovereignty and 'free it to pass its own laws', both announcement that would also not be reconcilable with many obligations of the Single Market. Whilst the external division seems unstoppable, containing the internal division requires farsighted policies sensible to the various societal needs.

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2. The EU Referendum and the Crisis of British Democracy

Pauline Schnapper

On 23 June 2016, a referendum on whether the UK should stay in the European Union was organised in Britain, following on a pledge made by David Cameron in January 2013, and led to a negative vote, leading to the prospect of Britain leaving the EU. There was no need for such a vote, as referendums do not belong to the British constitutional tradition. The political system of Westminster is based on the principle of representative, not direct democracy, whereby the people delegate their sovereign rights to elected representatives in Parliament. This is why, legally, referendums cannot be binding but only indicative.

Yet, there have been a growing number of referendums organised since; in 1975 the first referendum on membership of the European Economic Community (EEC) was held. More public votes followed after 1997 in Scotland, Wales, Northern Ireland, the North-East of England and a national referendum on the reform of the electoral system in 2011. Most national referendums are initiated for domestic political reasons, in tune with what Bjorklund (1982, 248) defined as 'mediation devices':

When a party or a government is divided on an important issue, it can be in danger of breaking up. The smaller the majority and the more important the issue, the greater the threat of lasting cleavages. In such a situation a party may embrace the referendum as a mediating device. The minority which is voted down can be reassured that the decision is in a way only temporary. The voters will have the last word.

The following shows that this referendum was no exception.

The Pledge

David Cameron's pledge to organise a referendum on EU membership was the result of strong pressures from about a third of the Eurosceptic backbenchers of his own party who blame EU institutions for being costly, undemocratic, bureaucratic and an obstacle to Britain enjoying the full benefits of globalisation. Originally, in the 2010 general election manifesto, the Conservative party leadership had promised to introduce a bill in Parliament imposing a referendum lock on any future European treaty which would require further transfers of sovereignty to Brussels. Cameron and William Hague, then Foreign Secretary, however, did not contemplate an in/out referendum. In October 2011, they imposed a three-line whip against a parliamentary motion demanding such a ballot. Eventually, in 2015, Cameron changed his mind as pressure from Conservative MPs and

part of the popular press – the *Daily Express* in particular, launched a successful petition among the public – grew. Moreover, in the light of the rising success of the UK Independence Party (UKIP), Conservatives were deeply worried about losing an increasing number of voters and activists to them. UKIP's *raison d'être* was to campaign to leave the EU and they were attracting an increasing number of votes, especially in local and European elections.

In his Bloomberg speech of 23 January 2013, Cameron set out what were, according to him, the three challenges faced by the EU: solving the Eurozone crisis, increasing economic competitiveness and improving democracy. He argued for more flexibility, less regulation, a stronger role for national parliaments and the repatriation of some powers to the national level. He promised a renegotiation of the terms of British EU membership, which would be followed by a referendum in Britain by the end of 2017.

Having unexpectedly won the 2015 general election, Cameron had to live up to his pledge. The negotiations in Brussels took place in autumn and winter culminating in the February Brussels European Council. The outcome did not meet with what Cameron had originally promised and fell far short of the demands of the radical Eurosceptics. Cameron achieved an opt-out from the 'Ever Closer Union' clause in the European treaties, safeguards about the rights of non-Eurozone countries, an agreement on completing the Single Market and, more importantly from his domestic political

point of view, an agreement on a possible 'emergency brake' that would stop new immigrants from getting in-work benefits for four years after their arrival in the UK. This was a far cry from a radical reform of the functioning of the EU and Britain's position in it. Reactions to the result of the negotiations were therefore mostly negative in the tabloid press and among Eurosceptics. Cameron faced a tougher campaign to remain in the EU than he had anticipated.

The Campaign

Facing opposition, including within his own Cabinet, Cameron felt compelled to lift the principle of collective responsibility, a central feature of the British constitution, by which ministers are not allowed to criticise or oppose a policy adopted in Cabinet. Six Cabinet members plus Boris Johnson, the former Mayor of London, were therefore at the forefront of the campaign to leave the EU. They joined what became the official Leave campaign: *Vote Leave*. UKIP dominated another, unofficial but well-funded grassroots campaign: *Leave.EU*. Whereas the former concentrated on the global trade opportunities of a potential Brexit, the latter's main message was to limit immigration from EU member states and to reclaim control of British borders. Both messages proved to be a successful combination on 23 June.

The Remain campaign was dominated, in the media at least, by David Cameron who, having defined himself originally as a Eurosceptic, suddenly turned into a supporter of European integration. He stressed the uncertainty and economic damage that leaving the EU would entail, calling it repeatedly 'a leap in the dark'. Other mainstream parties, Labour, the Liberal Democrats, the Scottish National Party and the Greens, supported staying but their campaign, especially that of Labour, came late and was weak. The Labour leader Jeremy Corbyn, a traditional left-winger, had been a Eurosceptic for decades arguing that the EU was a neoliberal club. His call for Remain was undermined by criticism of the EU and thus he failed to reach large parts of Labour supporters. Shortly before the vote, half of Labour voters did not know which side their party was on.

It was difficult to gauge public opinion during the campaign. The polls showed consistently that the result would be very close, with a high number of undecided voters (10 to 15 per cent according to several surveys). Nonetheless, most of them predicted a slight majority in favour of Remain, including the last YouGov survey published at 10 pm on election night, which saw 52 per cent in favour of Remain. The polls also pointed toward the division between the young and the old, the more and the less educated, and between cities and rural areas home to the 'left-behind' (Ford and Goodwin 2014). The referendum confirmed these divides with major cities, especially London, voting to stay while rural areas in

the South and small industrial towns in the North voted to leave.

The State of British Democracy

The result of 23 June cannot only be blamed on the way the campaign was run. When Cameron promised a referendum, he did not take into account the state of British democracy. Five long-term factors can be identified that lead to the Leave vote.

First, Euroscepticism is now embedded in British political culture. Fifty years of debate about Europe have led to an entrenched wariness about European institutions, fuelled by decades of negative media coverage and a negative discourse by large parts of the political elite. As I showed elsewhere (Schnapper 2015), it had become very difficult to articulate a positive discourse about Europe, especially since the end of the New Labour years (1997-2010). Cameron may have suffered from a kind of hubris when he thought he could reverse this trend within a few weeks of campaigning, after having himself criticised the EU for years as Conservative leader and then Prime Minister.

Second, like many other Western democracies, the UK suffers from a drop in the level of trust towards politicians, which was not the case when the first referendum on the EEC took place in 1975. This has been well-documented by

authors like Pippa Norris (2011) and Colin Hay (2007). Although that is a widespread phenomenon across industrialised countries, it has been compounded in the UK by the Iraq war which exposed overblown statements, if not lies, about the reality of the Saddam Hussein regime and the existence of weapons of mass destruction. It was also increased by the 2009 MPs expenses scandal which tarnished the image of politicians in general. Today, only about 30 per cent of the British population trust political leaders, which clearly reduces the influence on voters' decisions. Even though all mainstream party leaders supported Remain, voters did not follow their lead.

Third, election turnout proved to be a key issue in the result. We know that long-term turnout has been on a downward trend since the 1970s in the UK. While it was consistently above 70 per cent and sometimes reached 80 per cent until then, it went down to below 60 per cent in 2001 before going up slightly to 65 per cent in 2015. There is a big gap between the turnout among young people, which is below 40 per cent, and among older people who continue to vote massively. This was going to have a profound impact on the referendum, since opinion polls showed that young people were much more favourable to staying in the EU than people over 55. Although in the end turnout was quite high on average (72 per cent), it remained much lower among the younger generation.

Fourth, the referendum exposed the flaws in the first-past-the-post electoral system, which sees the candidate with the highest number of votes in a constituency win the seat, whatever percentage of votes they have achieved. This prevents small parties from getting a strong representation in parliament because they are unlikely to come first, even though the Labour/Conservative duopoly represents an ever smaller share of voters. In the 2015 general election, the Conservatives and Labour gained only 67.3 per cent of the votes but still hold 86.62 per cent of the seats in Parliament. For the 12 million UKIP voters, which are only represented by one seat in Parliament, the referendum was the opportunity to make their voice loudly heard. Whether the present electoral system for general elections is sustainable when so many UKIP, but also Green or Liberal Democrat voters are underrepresented and therefore feel disenfranchised, is open to question. Pressure for a reform of the electoral system might grow in the future, although a previous referendum on the Alternative Vote, a form of proportional representation, saw it rejected in 2011.

Finally, the referendum took place against the backdrop of strains in the Union between England, Scotland, Wales and Northern Ireland. Even after the 2014 Scottish referendum on independence pressure from Scottish nationalism remained high, as illustrated by the dramatic success of the SNP in the general election of 2015. The EU referendum increased these tensions by reinforcing the difference between Scotland,

which voted largely to stay in the EU, and England, where Leave won. Nicola Sturgeon, the Scottish First Minister, has already complained about the unfairness of having Scotland taken out of Europe against its will and mentioned the possibility of organising another referendum on Scottish independence before the UK leaves the EU. This represents a real risk that the Union between Scotland and England might break up in the years to come, even if the result of such a ballot would not be a foregone conclusion.

Conclusion

All these strains in the British political system explain why it was such a risky gamble for Cameron to organise this referendum. The immediate aftermath of the vote – Cameron's resignation and the crisis in the Labour party – is likely to undermine the party system even more, even if on the Conservative side at least the crisis has been contained by the swift appointment of Teresa May as leader. Tensions were reinforced, or at least exposed, by the campaign which was fought along populist lines pitting 'the people' against 'elites' and 'experts' and pandering to fears about immigration. In the end, emotions and sound bites about 'taking back control' prevailed over economic and political rationality.

The short-term consequences of the Brexit vote are already clear: the Sterling lost 10 per cent of its value and GDP is expected to drop in the coming year. The Prime Minister announced on 2 October at the Conservative Party Conference that she would activate Article 50 of the Lisbon Treaty by the end of March 2017, opening a two-year period at the end of which Britain will no longer be a member of the EU. Theresa May's previous position as Home Secretary, and pressure from the public and radical Brexiteers suggest that curbing EU immigration will be central to her strategy, possibly to the detriment of the British economy if it means leaving the single market entirely. Only the terms of leaving, and possibly a transition period, will probably be agreed by 2019. Negotiating future trade deals with EU Member States and its trading partners will take much longer. A prolonged period of uncertainty is the only certainty we have.

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3. Loose but not Lost! Four Challenges for the EU in the Aftermath of the British Referendum

Sandra Schwindenhammer

Just a few months ago, I was strongly convinced that the *Brexit* is not a realistic scenario. However, reality has caught up with me and with the European Union. The victory of the British Leave campaign on 23 June 2016 is a historic moment not only for the UK, but also for the EU's remaining 27 Member States. The future impact of the British referendum will depend on the new relationship between the UK and the EU. In this chapter, I will focus on some procedural, substantial, strategic and normative challenges the Brexit poses to European governance. I argue that the EU has to face four key challenges in the short and medium term in the aftermath of the British referendum:

1. Dealing with procedural uncertainty under Article 50
2. Dealing with substantial uncertainty
3. Preventing Britain becoming the first domino
4. Dealing with the enduring legitimacy crisis and new nationalisms

Challenge 1: Dealing with Procedural Uncertainty under Article 50

According to Article 50.1 of the Treaty on the European Union 'any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements' (EU 2012a, 43). One might arguably state that, at first sight, Article 50 is unambiguous and clear. The procedural requirements for withdrawal comprise three steps and the involvement of several European institutions (see Figure 1).



Figure 1. Source: European Parliament 2016, 4.

Although Article 50 sets down the procedural requirements for withdrawal, the process after the British referendum to the establishment of a new relationship between the UK and the EU will be prolonged and highly uncertain. Applying findings from the European Parliaments Briefing in February 2016, I argue that the legal framework under Article 50 involves several veto points that make the withdrawal procedure highly unpredictable and uncertain. Veto points emerge from political institutions whose members are able to block attempts at policy change. They can arise from structures that are exogenous to the executive-legislative

relationship, such as judicial review or federalism, or from specific features of individual political systems, e.g. bicameralism (Weaver and Rockman 1993, 26). Veto points vary widely across political systems. The more veto points exist, the more difficult it is to achieve a common policy outcome.

In the first step, the withdrawal process has to be initiated by a notification from the Member State wishing to withdraw to the European Council (European Parliament 2016, 3). This is what everybody in Brussels is presently waiting for. The timing of this notification is, however, entirely in the hand of the UK. On 2nd October 2016, Prime Minister Theresa May confirmed that she will trigger Article 50 by 'the first quarter of 2017'. This decision corresponds with earlier statements on the UK's likely timetable and preparatory work for Brexit by David Davies who is in charge of negotiating Britain's withdrawal from the EU:

The negotiating strategy has to be properly designed, and there is some serious consultation to be done first. Constitutional propriety requires us to consult with the Scots, Welsh, and Northern Irish governments first, and common sense implies that we should consult with stakeholders [...]. This whole process should be completed to allow triggering of Article 50 before or by the beginning of next year.

Prior to formal notification, Article 50 allows informal discussions between the country wishing to withdraw and

other Member States or EU institutions. However, it is unlikely that this will happen. In late June 2016, the German Chancellor Angela Merkel, along with the French President François Hollande and Italy's Prime Minister Matteo Renzi, insisted that there will be no formal or informal talks about the British withdrawal until the UK has officially triggered Article 50. Thus, it will also take some time until the European Council will provide the guidelines for the negotiations between the EU and the UK with the aim of concluding an agreement setting out concrete withdrawal arrangements. These arrangements should cover the departing Member State's future relationship with the EU (European Parliament 2016, 3).

The EU and the UK have a timeframe of two years to agree on these arrangements. After that, membership ends automatically, unless the European Council and the Member State concerned jointly decide to extend this period (European Parliament 2016, 4). The two-year time period has positive and negative aspects. On the one hand, one might argue that a two-year period allows for a cooling off. On the other hand, the time span leads to uncertainty and potential blackmailing (Rieder 2013, 157). According to Friel (2004, 426), the two-year rule might enable the larger Member States to control the process of withdrawal to their own benefit, perhaps even using the threat of withdrawal to force concessions from the other Member States, knowing that any putative withdrawal could itself be withdrawn before the

two-year time period has expired. I assume that the two-year time-frame will either be extended, or, since the UK knows that withdrawal will take effect in any case after two years, the negotiations will not be characterised by strong attempts to find consensus until summer 2019.

Step two of the formal withdrawal process involves the European Commission making recommendations to the Council to open negotiations with the UK. Before concluding an agreement in step three, the Council will need to obtain the European Parliament's consent (European Parliament 2016, 4). It should be noted that, whilst the British members of the European Council and of the Council will not participate in the discussions or decisions concerning the UK's withdrawal, no similar provision exists for Members of the European Parliament (MEPs) elected in the UK. Although British MEPs have to represent the collective interests of all European citizens, I assume that national loyalties will prevail in this case.

The Council has to conclude the withdrawal agreement with a so-called 'super qualified majority' (without the participation of the UK). According to Article 238.3(b) of the Treaty on the Functioning of the European Union, the super qualified majority rule is only applied in the few cases when the Council does not act on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy (EU 2012b, 153-154). The super qualified majority is defined as at least 72 per cent of the

members of the Council, comprising at least 65 per cent of the population of the Member States (without the withdrawing state) (European Parliament 2016, 4). The future will show in how far the super qualified majority rule will impact the withdrawal process. Unlike the accession of new Member States, the withdrawal of a Member State does not require national ratification by the remaining members (European Parliament 2016, 4). However, any treaty change or international agreement, such as a free trade agreement, that might become necessary with Brexit, will need to be ratified by the remaining 27 Member States. Whether this will happen, I am not sure. All in all, there are too many veto points to allow for a reliable forecast of the procedure under Article 50.

Challenge 2: Dealing with Substantial Uncertainty

Article 50 does not establish any substantial conditions for a Member State to be able to exercise its right to withdrawal. There is a huge lack of clarity over what will replace British EU membership, especially with regard to the UK's future Single Market access. To what extent will free trade and labour mobility between the UK and the EU continue? Will London still be Europe's leading finance centre? These are only two of the numerous questions concerning European economies. Economists have done some research on future-scenarios and the potential impact of Brexit on the UK-EU economic

relationship (see i.e. Dhingra and Sampson 2016, 5 et seq.; Global Counsel 2015, 6).

The authors differentiate several models. Under a scenario that resembles the EU-Norway relationship (*Norwegian-style model*), the UK joins the European Economic Area (EEA) and maintains full access to the Single Market, but must adopt EU standards and regulations. Although EEA members belong to the Single Market, they are not part of deeper European integration. For example, as an EEA member Norway does not belong to the EU's customs union. This means Norwegian exports must satisfy 'rules of origin' requirements to enter the EU duty-free (Dhingra and Sampson 2016, 5). The *Norwegian-style model* would not give the UK the political flexibility to justify Brexit. The UK would have to continue to pay billions in contributions to the EU without having a say in shaping the rules of the Single Market.

The *Turkish-style customs union model* avoids internal tariff barriers, with the UK adopting many EU product market regulations (Global Counsel 2016, 6). However, sector coverage would be incomplete and the UK would be required to implement EU external tariffs without guaranteed access to third markets. By contrast, the much looser *most-favoured nation model* implies that the UK's trade with the EU would only be governed by rules of the World Trade Organisation (WTO) (Dhingra and Sampson 2016, 7). The *most-favoured nation model* will likely be applied when the UK and the EU cannot agree upon any specific economic arrangement. The

model would give flexibility, but is likely to jeopardise trade and investment (Global Counsel 2016, 6). The UK's exports to the EU and other WTO members would be subject to the importing countries' most-favoured nation tariffs. This would raise the cost of exporting to the EU for UK firms (Ottaviano et al. 2014).

The most likely models are either the *Swiss-style model of bilateral accords* governing access to specific sectors of the Single Market or the comprehensive *FTA-based model* (Free Trade Agreement) (Global Counsel 2016, 4). Under the *Swiss-style model*, the UK and the EU would agree a set of bilateral accords which regulate UK access to the Single Market in specific sectors. However, the EU would be under no obligation to serve the UK everything on the menu, which means that the Swiss model would not provide the same guarantee of market access that EU or EEA membership offer (Dhingra and Sampson 2016, 6).

Under the *FTA-based model*, the UK would be free to agree FTAs independently and the UK's relationship with the EU is itself governed by an FTA. Both models – the *Swiss-style model of bilateral accords* and a comprehensive *FTA-based model* – would require prolonged negotiation followed by compromises and may still impose costs. According to Ottaviano et al. (2014, 3), trade costs after the UK leaving the EU will likely increase because of (i) higher tariff barriers between the UK and the EU, (ii) higher non-tariff barriers to trade (arising from different regulations, border controls,

etc.) between the UK and the EU, and (iii) non-participation of the UK in future steps that the EU takes towards deeper integration reducing non-tariff barriers. The last aspect is particularly important when we think of the ongoing TTIP negotiations and the question what role the UK still has to play in this process.

In early October 2016, Theresa May emphasised that the UK's negotiations with the EU will be based on 'the freedom to make our own decisions on a whole host of different matters, from how we label our food to the way in which we choose to control immigration'. In this regard she rejected the *Norwegian-style model* and the *Swiss-style model*: 'It is not, therefore, a negotiation to establish a relationship anything like the one we have had for the last 40 years or more. So it is not going to be a Norway model. It's not going to be a Switzerland model. It is going to be an agreement between an independent, sovereign United Kingdom and the European Union'. The future will show to what extent Theresa May's insistence on the principles of sovereignty and independence will hinder, and not enhance, a viable long-term solution that guarantees the free movement of goods and services between the UK and the EU. I assume that the UK's future Single Market access will be a long, uncertain and maybe costly journey, taking not two years, but ten years or more. In this regard, I am not as optimistic as David Davis (2016) who said on the UK's future access to the Single Market:

The ideal outcome, (and in my view the most likely, after a lot of wrangling) is continued tariff-free access. Once the European nations realise that we are not going to budge on control of our borders, they will want to talk, in their own interest. There may be some complexities about rules of origin and narrowly-based regulatory compliance for exports into the EU, but that is all manageable.

Challenge 3: Preventing Britain Becoming the First Domino

The third challenge refers to the potential domino effect threatening the European unity. Immediately after the British referendum, right-wing political leaders, such as Dutch politician Geert Wilders and Marine Le Pen, the head of France's Front National, called for their own votes on EU membership. The rise of right-wing populism fuels Eurosceptic positions. Negative positions towards immigrants and the bureaucratic EU elites, who, allegedly, do not listen to the concerns of ordinary people, can be found among all right-wing parties' programmes in Europe (Rooduijn 2015). Right-wing political leaders take advantage of the rising resentment over the fallout from globalisation which has widened the gap between the rich and the poor. They present themselves as the voice of Eurosceptic citizens and argue that the European political elite is arrogant, selfish, incompetent and corrupt (Rooduijn 2015, 4 et seq.).

Indeed, Euroscepticism provides a strong rationale for European citizens to vote for right-wing parties (Werts et al. 2012). Since many mainstream parties today only offer positive or appeasing messages towards European integration, citizens who are Eurosceptic, often have little other option than to vote for parties on the fringes of the political spectrum (Rooduijn 2015, 4). Is there currently a realistic threat of a 'Frexit' or a 'Nexit' posed by right-wing parties in Europe? I do not think that a majority of the national citizens in France and the Netherlands would also decide to leave the EU. It seems more likely that the EU will take a tough stance in the negotiations with the UK to set an example and prevent other countries to take the same path. Nevertheless, in order to stop right-wing populist parties from rising further, political discussions within and about Europe need to give a stronger voice to citizens that feel left behind.

Challenge 4: Dealing with the Enduring Legitimacy Crisis and New Nationalisms

From a more optimistic point of view, one might argue that the UK leaving the EU serves as a wakeup call. Brexit could be the salutary shock needed for change. Right after the British referendum, Angela Merkel said that it is now a 'turning point for Europe' and Francois Hollande suggested 'to move forward; Europe cannot act as before'. The EU suffers a lack

in input and output legitimacy. Less and less citizens participate in European elections, and many doubt that the European Commission's agenda benefits them. The institutional reforms that gradually endowed the European Parliament with more power have not managed to increase the EU's political authority. The shift from the 'permissive consensus' to the 'constraining dissensus' (Hooghe and Marks 2009) jeopardises the EU's legitimacy, hampers European integration and fuels Euroscepticism.

Efforts of further European integration had been rejected before in national referendums. In 2008, the Irish voted against the Treaty of Lisbon, and in 1992, the Danish rejected the referendum on the Maastricht Treaty in 1992. In both cases, citizens were asked to vote again after the provision of national concessions and, finally, voted in favour of the EU treaties. The two referendums serve as illustrative examples of earlier setbacks in the European integration process. They also reveal an elite-public gap and indicate the growing impact of European citizens and public opinion. The rise of Euroscepticism among European citizens shows that previous efforts to solve the democratic deficit have had limited success. Most mainstream parties are more Euro-supportive than voters and still resist politicising the European integration issue (Hooghe and Marks 2009, 21).

Eurosceptic parties on the populist right and radical left seem to be closer to the pulse of public opinion than mainstream parties. On the far left, opposition to European integration

expresses antipathy to capitalism; on the populist right, it expresses defense of national communities (Hooghe and Marks 2009, 21). Nationalism is rising along with negative public attitudes towards the EU, which put Member State politics under pressure (Schmidt 2015, 56). However, simplistic demands of regaining sovereignty and national control over policies ignore the fact that state capacities are systematically limited in times of globalisation. The golden age of statehood, ideally characterised by a complete overlap of its four basic dimensions – resources, law, legitimacy and welfare (Leibfried and Zürn 2005) – seems to be history. With its decline since the late 1970s, various functions traditionally ascribed to the nation state have dispersed into the international realm (internationalisation) and to new actors (privatisation) (Flohr et al. 2010, 4).

Conclusion

This chapter has identified the procedural, substantial, strategic and normative challenges that Brexit poses in the short and medium term to European governance. From a procedural perspective (challenge 1), multiple veto points do not allow for a reliable forecast of the procedure under Article 50. Moreover, the effectiveness of veto points highly depends on the extent to which a veto is complete, permanent and non-appealable (Weaver and Rockman 1993, 26). In the substantial dimension (challenge 2), the UK's future Single

Market access will be a long and a costly journey. The UK's 'continued tariff-free access' (Davis 2016) to the Single Market after Brexit is still a long way off. We do not know how long it will take to come to an agreement and whether the *Swiss-style model* or the comprehensive *FTA-based model* will prevail. From a strategic perspective (challenge 3), the EU will likely take a tough stance in the negotiations with the UK to prevent other countries (e.g. France or the Netherlands) taking the same path. The most pressing and important challenge for the EU is to solve its enduring legitimacy crisis (challenge 4).

In order to (re-)gain the support of the European public, the EU will have to protect, improve or create policies that contribute to more inclusiveness, transparency, fairness and accountability (input legitimacy) *and* to develop governance arrangements in a way that allow for more efficient and effective policy outcomes (output legitimacy) (Scharpf 1999). All in all, I agree with Vivian Schmidt (2015, 56) that there is still a window to solve the European legitimacy crisis and to respond to the rise of the new nationalisms – but it may not be open for long. As the EU legitimacy crisis continues and disillusionment grows, right-wing populism will become increasingly difficult to reverse. Subsequently, it will become harder to resolve the crisis with innovative ideas as polarisation will increase. Thus, to put it in a nutshell, the EU may be currently loose but it is still not lost!

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4. European, not British? Scottish Nationalism and the EU Referendum

Neil McGarvey and Fraser Stewart

The EU Referendum campaign, result and aftermath have ensured that Scotland's constitutional status both within the United Kingdom and the European Union remains in sharp focus. Eyes are now firmly fixed on the Scottish government, as they initiate plans to hold a second vote on Scottish independence. Whether or not the people of Scotland are ready for another referendum, having already voted on independence in 2014 and on membership of the European Union earlier this year, remains to be seen.

Of course, there is a palpable desire among vastly pro-Europe nationalist voters and politicians for a second campaign, with data suggesting most favour another ballot within the next 24 months (Stewart 2016, forthcoming). That would mean three major referenda in Scotland in six years. Already we have endured two major constitutional votes since 2014, with two major general elections in between. But it is important to note that the Scottish and European referendums were two remarkably different campaigns, predicated upon two very different nationalisms.

Two Very Different Campaigns

Naturally, some similarities between the Scottish independence and Brexit campaigns were evident; both invoked the image of an institutional oppressor to some degree, for example, as a means to creating something of an anti-establishment image. Both invoked a version of nationalism. But even these shallow similarities are vastly different on closer inspection. Beyond surface level, the two 'change' campaigns – 2014 'Yes' and 2016 'Leave' – in fact shared very little in common. Stark contrasts were evident in everything from content to strategy to engagement.

First, Scotland's Yes campaign was one underpinned by an unerring optimism. From the name itself to campaign slogans and propaganda, the Yes movement was almost entirely positive by design. It was an initiative governed by the notion that people want to vote *for* something, rather than against it – a lesson learned perhaps from previous campaigns won by the then first Minister and figurehead of the Yes campaign, Alex Salmond, in 2007 and 2011 respectively (see Mitchell et al. 2013). Central messages focussed not on the oppression of Westminster, but rather on decidedly egalitarian and progressive messages, such as peace, fairer wages, heightened prosperity within the international community and a closer relationship with government. Vote Leave, on the other hand, was very much a negative project, hinged predominantly on the principle of invoking social anxieties. Voting to leave the EU and 'Take

Back Control' was sold as the only way to placate these concerns: control of borders and citizenship were especially prominent sentiments.

Participation in each campaign was equally divergent. Between 2012 and 2014, Yes Scotland successfully mobilised grassroots participation to quite an emphatic degree, with over 250 local Yes groups formed throughout the campaign (not including other initiatives, such as Radical Independence and Labour for Indy). Tens of thousands of activists quite famously took to the streets, canvassed, delivered leaflets and debated the merits of Yes across the country. Social media was also employed as a key and thriving battleground. Indeed, the 'political awakening' created by the Scottish referendum is well-renowned (Geohegan 2014; Blain et al. 2016). The EU referendum, on the other hand, remained a largely elitist debate. Grassroots mobilisation was virtually non-existent in comparison. Instead both the Leave and Remain campaigns were represented almost exclusively by a handful of elected Westminster MPs, and fought very much across newspaper and television platforms.

Two Very Different Nationalisms

Each of these factors ties in with the matter of nationalism. Much is often said, quite lazily, about the badness of nationalism; its insularity and its regressive tendencies and

often discriminatory sentiments (see Brown 1999 for a review). But these two campaigns show just how immensely diverse the topic of nationalism can be.

Derived from its message of positivity, the Yes campaign promoted a nationalism which was far less about the cultural superiority traditionally associated with nationalist movements, and far more to do with political empowerment. It forged a tenet of what has since come to be known as 'civic' nationalism – a diverse and forward-thinking ideology, premised on the vision of Scotland as an open and equal society.

Vote Leave, however, very much presented the populist and xenophobic vulgarities of old. Immigration, refugees and terrorism would all become key spectres in the race to win votes. Underlying scepticism towards immigrants in the UK was fuelled into something far more socially divisive, while the image of pure and imperial 'Great Britishness' was invoked as a collective identity.

Such 'Great British' values are little recognisable in Scotland. In recent years, British identity has shifted from the New Labour vision – one with 'global connections and European roots' (Parekh 2000, 260) – back to the more 'cartoonish' superiority complex of the Conservatives (Kidd 2008, 5). It is a version of British identity articulated by and commonly associated with the likes of Enoch Powell and Margaret Thatcher, and hinges on four main criteria: the absolute

sovereignty of the UK parliament; Britain as an individualist society; pre-political unity of the British people under shared values; and the centrality of British interests in all matters, foreign and domestic. It is a British identity sceptical of European involvement, opposed to a large welfare state and staunchly against the principles of Home Rule in Ireland, Scotland and Wales.

Scotland has not given backing to such discourse in decades, decisively rejecting time and again the politics of Thatcherism and Britishness so synonymously associated with traditional Conservative philosophy (Hassan 2014, 130). The EU debate of 2016 thus never did look like the one in Scotland two years prior – largely because it felt like the Scottish people had no part in it. Viewed from north of the border, the EU debate was one taking place elsewhere; an alien debate reminiscent of the imperial British nation pre-Common Market. Conservative versus Conservative debates were intensely Anglo-centric, and lacking in the egalitarian principles so often attributed to the Scottish electorate (Cairney and McGarvey 2013; Hassan 2014). Even the immediate Brexit fallout – the impact on the City (of London), the collapse of sterling, the resignation of David Cameron and mass exodus of Labour’s shadow cabinet – felt like foreign issues, and existed in immense disparity to the seemingly stable nature of politics in Edinburgh.

By the time votes were counted, the sense of political divergence was obvious. If Boris Johnson and Nigel Farage’s

version of Britishness is inherently Eurosceptic, Scottish sentiments were far from harmonious. This divergence was reflected perhaps most unambiguously in the final result, which saw the UK as a whole vote to leave the EU (52 per cent to 48 per cent), with Scotland voting quite conclusively to remain (62 per cent to 38 per cent). Every single one of Scotland's 32 local council areas, including its island councils, voted to stay part of the European Union. The Anglo-centricity of the debate and indeed the collective British identity had not resonated with voters in Scotland as it had elsewhere in the UK. Quite the contrary in fact: this outcome would present a brief but sharp spike in support for independence, and afford Nicola Sturgeon precisely the 'material change' she had been seeking to demand a new Scottish referendum.

European, not British? Scottish Nationalism and the EU

Considerable uncertainty has hence been thrown up in Scotland by the EU referendum result. Despite Scottish political leaders surviving the post-Brexit cull, nothing else is particularly secure in either European or domestic affairs. The 2016 Scotland Act, with its maelstrom of shared responsibilities between Holyrood and Westminster, looks like a recipe for volatility. Combined with the residual and unerring support for independence amongst a substantial

portion of the population, the constitutional question remains far from settled; if anything, it looms more prominently now than ever before. Without question, the two referenda have done substantially more to de-stabilise, rather than solidify, Scotland's place within the United Kingdom.

Further uncertainty is to be found in the actual process of leaving. The UK government has indicated it will not invoke Article 50 of the Lisbon Treaty until Spring 2017, meaning that the UK is likely to remain an EU member state until 2019. Nobody quite knows exactly what the triggering of Article 50 will mean in practice. Beyond affirming that the will of the electorate will be implemented with a series of meaningless soundbites ('Brexit means Brexit'), information regarding how to proceed is scarce. Needless to say, whenever Article 50 is triggered in 2017, it will have implications across a huge range of policy areas in the UK, as outlined by a recent House of Commons paper (2016).

But the effects to UK policy areas are perhaps the least of the UK government's worries, knowing now the very real threat posed by Brexit to the Union. At the 2016 Scottish Parliamentary elections, the Scottish National Party (SNP) insisted that a vote to leave Europe against Scotland's will would potentially trigger a second independence referendum; the promise now-famously alluded to as a 'material change in circumstances' in their manifesto. Some might assume, then, that the nationalist attachment to

Europe is merely an act of political opportunism to achieve the ultimate aim of independence – this would be a very narrow and selective interpretation to make.

This European/Scottish nationalist affinity is more than a recent political invention. Since launching their 'Independence in Europe' slogan at the party's 1988 Annual Conference, the SNP have utilised attachment to and membership of the EU as a counter to the unionist charge of separatism. Given their desire for full Scottish autonomy, many have quite reasonably questioned the ideological consistency of being both pro-Europe and pro-independence. It is not, however, an impossible position by any means. The SNP have long sought to cement a relationship between their brand of outward, civic nationalism and emphasise its cogency with the European project. Its written constitution, shared rule and intergovernmental politics are all attributes favoured within Scottish nationalism over the centralised single-party governance of Westminster. An independent Scotland would seek a formal constitution which was modern in its assertion of ideals, rather than adopting the UK's instrumentalist approach. An independent Scotland would ultimately be a European one.

Herein lie the ideological roots of the Yes movement and indeed much of the enduring support for Scottish independence – what Barton Swaim of *the Washington Post* described as 'post-national nationalism' (2016). At the very

heart, Scotland's nationalism is not insular, and nor does it seek autonomy for autonomy's sake; it is not culturally superior or nationally charged in any significant way, as was the conservative British nationalism of the EU referendum. Rather, it is an almost practical and decidedly political position that seeks both a closer relationship between people and power, and Scotland and the international community.

Conclusion

The path to independence remains fraught with obstacles. Gaining consent to host a second referendum from an especially hostile Conservative government will not be straightforward. Nor will winning one – opinions on both the Yes and No sides have hardened since 2014 (Khomami 2016). Despite a flurry of post-Brexit opinion polls in late June showing majorities for independence (Philip 2016), more recent polls still tend to show a small majority against. Indeed, the economic case for Scottish independence has suffered as a result of falling oil prices since 2014, while the question of currency remains unanswered.

But it is impossible to deny that Scotland's relationship in the UK since 1999 has been that of an ever-looser Union. The 2014 referendum vote may have affirmed that the people of Scotland were not quite ready for divorce, but this is no longer 2014. Two years later, the paradigm has very much

been altered. Remaining in the UK is no longer the status quo option. There is no middle-ground choice. One involves leaving the EU with the rest of the UK, the other leaving the UK whilst remaining on the EU. The UK of 2014 is gone.

Moreover, this is no longer the age of New Labour's British identity, with its Europhilia and internationalism in line with the Scottish nationalist ethos; this is a decidedly Conservative British identity – one that looks and feels regressively Anglo-centric at the heart of it, and foreign to many in Scotland. The chasm between contemporary Scottish and British nationalism is only widened when viewed through the lens of Europe.

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5. The Future of Scotland in the UK: Does the Remarkable Popularity of the SNP make Independence Inevitable?

Paul Cairney

The vote to remain in the UK, in the Scottish independence referendum in 2014, did not settle the matter. Nor did it harm the fortunes of the pro-independence party, the Scottish National Party (SNP). Instead, its popularity has risen remarkably, and major constitutional change remains high on the agenda, particularly during the run up to a referendum on the UK's exit from the EU. This continued fascination with the constitution overshadows the day-to-day business of Scottish politics. I highlight one aspect in particular: the tendency for limited public and parliamentary scrutiny of substantive policy issues when they are viewed through a constitutional rather than a substantive policy lens, producing an image of weak accountability. The aim of this chapter is to

- Explain why the SNP's popularity is remarkable.
- Note that none of us have predicted it – or indeed much of the short history of devolution - too well, and use this point as a cautionary tale.

- Describe why independence is not inevitable, even though it often seems likely.
- Shoehorn in some analysis of the links between our fascination with the constitution and the more humdrum world of actual policy.
- Provide a brief update on the impact of the EU referendum, bearing in mind that I am just as hopeless as anyone else about predicting the future.

The Remarkable Popularity of the SNP

The SNP's popularity is remarkable. Scottish Labour had dominated Westminster and local elections in Scotland for decades before the first Scottish Parliament election in 1999 – it also won a plurality of European Parliament seats, but with far lower margins. Labour won most Scottish seats in every election from 1959-2010. In 1997, it won 46 per cent of the vote and 56 (78 per cent) of 72 Scottish Westminster seats (Cairney and McGarvey 2013, 45). The SNP won 22 per cent of the vote and 6 (8 per cent) seats. A similar pattern continued until 2010: Labour dominated Scottish Westminster seats even when the SNP began to win Holyrood elections. In the elections for the Scottish Parliament, its 44 per cent of the vote translated into 613 (53 per cent) of 1155 seats in 1995, and it remained the largest party until 2007 (Cairney and McGarvey 2013, 51).

This dominance produced an expectation that Scottish Labour would become the largest party in the Scottish Parliament for the foreseeable future. In that context, the fortunes of Labour and the SNP changed remarkably quickly. In 1999 and 2003, the main limit to Labour dominance was the electoral system: it won the majority of constituency seats comfortably but few regional seats and it also won most constituency seats in 2007. By 2011, this position had reversed and, by 2016, the regional list was the only thing standing between Scottish Labour and electoral oblivion.

In contrast, by 2011 the SNP achieved a majority of Scottish Parliament seats because the regional element of the mixed-member proportional system (56 of 129 seats) was not large enough to offset SNP dominance of constituency seats. This is a remarkable outcome if we accept the well-shared story that Holyrood's electoral system was 'chosen by Labour to stop the SNP ever the getting the majority it needed to push hard on the independence agenda' (Cairney 2011, 28).

It is also remarkable that the SNP's popularity did not dip after the 2014 referendum. You could be forgiven for thinking that a No vote in the referendum on Scottish independence would damage the SNP (Cairney 2015). If it is a single issue party, and most voters rejected its position on the issue, wouldn't you expect it to suffer? Yet, here is what happened instead: its membership rocketed, from 25,000 to 75,000 in two weeks, then to 115,000 by 2016; it won 56 of 59 Westminster seats in Scotland (2015) on the back of 50 per

cent of the vote; and it won a third Holyrood election in a row, only missing out narrowly on a second majority in a row, in a Mixed Member Proportional system.

This is not so remarkable if you know that the SNP is not a single issue party. Instead, it is a highly professional organisation which has won elections on the back of valence politics as well as identity. The SNP did well in 2007 (Johns et al. 2009), and very well in 2011, because 'most voters thought that the party would do a better job in office than its rivals' (Johns et al. 2013). People vote for a party when they respect its leader, its vision for the future, and have a high expectation of its competence while in office – and the SNP has benefited from being a party that looks highly professional (although one's belief in the competence of the SNP may be linked strongly to one's national identity and support for independence).

So, (a) it is worth noting that the SNP is doing well partly because 45 per cent of the vote will not win you a referendum, but it (plus a bit more) will do very nicely in a not-super-proportional election system, but (b) there is far more to the SNP's story than a translation of national identity into support for independence.

You will always find someone who claims that they predicted these developments correctly, but that is because of the immense number and range of hyperbolic predictions – from the claim that devolution provided a 'stepping stone' to

independence (Dalyell 2009), to the claim that it would kill nationalism 'stone dead' – rather than the predictability of politics. So, for example, in retrospect we can say that devolution provided an important new platform for the SNP (Johns et al. 2010), but at the time we did not know that it would use this platform so effectively from the mid-2000s. Similarly, maybe some people in the future will look back to argue that Scottish independence was inevitable, but without being able to predict the detailed mechanisms of decisions and events.

Scottish Independence is Not Inevitable (Even Though it Often Seems Likely)

Before the Brexit vote, I tried to sell the idea that 10 years is the magic figure between Scottish referendums (2014 and 2024): a short enough distance to keep pro-independence actors content, and long enough to hope that enough people have changed their minds. In the meantime, the SNP and Greens would produce some vague triggers, like a surge in opinion poll support.

Now, if a second referendum is to happen, it is because of the constitutional crisis prompted by Brexit. Overall, most UK voters chose to leave the European Union, but most voters in Scotland chose to remain. The SNP and its allies will push for a second referendum on that basis, with reference to a

'democratic outrage'. It possesses the votes to pass a bill to that effect in the Scottish Parliament, and needs some cooperation from a UK Government led by the party that just used a referendum to justify major constitutional change. It is difficult to see why the Conservative Government would oppose a referendum under those circumstances – rather than allow it to take place and argue for the Union – even though UK government ministers have rejected the idea so far.

If a second referendum happens, it could happen before 2020. I am hesitant to say when exactly, partly because there is so much uncertainty, which too many people try to fill with needless speculation. For example, Sturgeon confirmed that it could happen as early as 2017, but only because the BBC asked her what she would do if the UK Government behaved unreasonably. In the same interview, Sturgeon also suggested that it may take a long time for the UK to invoke Article 50, which triggers a notional two-year negotiation period before the UK leaves the EU.

Before we know if a second referendum is likely, and the likely date, we need clarity on two things: first, the extent to which the UK can, and is willing to, negotiate a deal with the EU which satisfies the SNP and Scottish voters – by becoming Brexit-lite or providing Scotland-specific provisions on key issues like the free movement of people; and second, the timing of Brexit, since a Scottish referendum would hopefully not take place until we know what we are voting for – which

might not happen until near the end of the notional two-year negotiations. Still, it is likely that the vote would be binary, as some version of: stay in the UK out of the EU, or leave the UK and stay in the EU.

Dissatisfaction with devolution is not the same as support for independence. Recent events reinforce the sense that Scottish devolution will never seem like a 'settlement'. Instead, until recently, we have had a routine process in which: (a) there is a proposed devolution settlement, (b) it sticks for a while, (c) there is a rise in support for independence or further devolution, and (d) there is another settlement.

So far, this has happened in 1999, the first modern settlement, from the SNP's first Holyrood win in 2007 producing the Scotland Act 2011, and during the referendum itself producing the Scotland Act 2016. The difference this time is the sense – often generated by supporters and opponents of independence – that the 2016 Act is the final offer. If so, before Brexit, we had two key scenarios: first, this offer proves to be too unpopular to maintain support for devolution, there is a further referendum, and no-one can offer more devolution in exchange for a No vote. Second, the 2016 Act finally helps address the idea of a 'democratic deficit' in which (a) most people in Scotland vote for one party in a UK general election – usually Labour, now SNP – but get another – often Conservative, and (b) this problem helps produce the sense that the UK Government is imposing

unpopular policies on Scotland. For the new act to work, you would need to generate the widespread sense, among the public, that a Scottish Government could choose to mitigate the effects of a UK Government, perhaps without raising taxes.

Now, things are a bit more complicated, since devolution is no longer simply about Scotland's position in the UK. Scenario two now has to be accompanied by the sense, however true, that the Scottish Government is able to negotiate a distinctive relationship with the EU while remaining in the UK.

What Happens in the Meantime? The Humdrum World of Scrutiny and Policy-Making

In the meantime, Scottish politics exhibits an unusual twist on the usual tale of Westminster politics. We have the familiar disconnection between two understandings of politics, in which (a) we use elections and some parliamentary scrutiny to praise or blame governments, but also (b) recognise the limits to central control, which undermine a meaningful sense of accountability. This confusion is complicated by devolution and 'multi-level governance' in which we are not always sure about which level of government is responsible for which policy – although Brexit will remove a level from many of those relationships! The 2016 Act, in which there are

many new shared responsibilities between the Scottish and UK Governments, adds complexity and confusion to the settlement. So, politicians tell very different stories about what the Scottish Government can do, who is in charge, and who should take the blame for policy outcomes. Moreover, the Scottish Parliament continues to struggle to know how best to try to hold the Scottish Government to account and it might soon struggle a bit more.

Perhaps one possible exception is the new debate on educational attainment. First Minister Nicola Sturgeon staked a large part of her reputation on reducing the gap in attainment between students in the most and least deprived areas of Scotland. Before the election, she promised to 'close the attainment gap completely'. Although the SNP manifesto in 2016 presents more equivocal language, reflecting the sense that it does not know how much it can reduce the gap, it remains significant as an issue in which there are constitutional complications. The Scottish Government does not control fully the economic and social security 'levers' affecting levels of deprivation, but the SNP is not using them to qualify its aims. This example supplements several ongoing debates of high party political importance, in which there is not a constitutional element on, for example, the Scottish Government's 'named person' policy and legislation on 'offensive behaviour' in relation to football.

Maybe such cases suggest that, for at least the next few years, we will pretend that there is a Scottish devolution

settlement and that we are not just killing time until the next referendum. This, however, already seems like an out of date hope. The constitution is back at the top of our agenda, and I cannot remember the last time I read a story about domestic policy in Scotland.

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6. Reflections from Northern Ireland on the Result of the UK Referendum on EU Membership

Paul Carmichael¹

As the deluge subsides and the waters fall short, we see the dreary steeples of Fermanagh and Tyrone emerging once again. The integrity of their quarrel is one of the few institutions that have been unaltered in the cataclysm which has swept the world.

Winston Churchill, 22 February 1922

Written in the aftermath of the Great War, and the subsequent partition of Ireland as a prelude to the creation of the 'Irish Free State', Winston Churchill's disparaging remarks have often been recalled in Northern Ireland, as the effects of later world events have been refracted through the prism of the Province's politics. In this, the centenary year of the Battle of the Somme, although immeasurably less seismic in nature than that titanic struggle, the impact of the outcome of the United Kingdom's recent referendum on European Union membership, continues to reverberate through the body politic of this Province, the UK as a whole, and indeed across

the rest of Europe. What will 'Brexit' mean for Northern Ireland? At this stage, with so much uncertainty, one can largely only speculate. However, while details remain elusive, it is clear that there are major implications and unintended consequences that flow from that momentous decision of 23 June 2016.

Background

In the first ever pan-UK referendum, that on continued British membership of the European Economic Community (EEC) or 'Common Market' in June 1975, Northern Ireland voted by 52 per cent to 48 per cent to accept the revised terms that had been negotiated by the Labour Government. Nationally, the vote was 67 per cent in favour of remaining – the only parts of the entire UK to vote against, were the Western Isles and Shetland Islands. The result in Northern Ireland that year was:

Yes	259,251	52.1%
No	237,911	47.9%

Turnout 48.2%

In comparison, the rest of the UK endorsed staying in the EEC by a far greater margin.

Yes	17,378,581	67.2%
No	8,470,073	32.8%

Turnout 64.5%

Nonetheless, there was some surprise that Northern Ireland had supported remaining in the Common Market. The Province's Unionist majority, fearful that the EEC might undermine the already contested constitutional status of Northern Ireland, had been expected to back the 'No' campaign. The political leaders of Unionism were, on balance, against continued membership, some vehemently so, such as the Reverend Ian Paisley. Constitutional Nationalists were broadly in favour of continued membership although the Republican movement was hostile, contending that the 'Rich Man's' or 'Capitalist Club' was anathema to their conception of Irish sovereignty and culture.

In the years following the UK's decision to remain in the EEC, and through successive Treaties which slowly but ineluctably bound both the UK and the Republic of Ireland ever more deeply into the European 'project', Northern Ireland was on balance a net beneficiary, at least as measured in terms of the financial largesse emanating from Brussels. Support for peace and conflict resolution in Northern Ireland, as demonstrated in successive financial packages to help

sustain that commitment, amounted to a sizeable addition to London-directed public spending. All told, now in fourth iteration, the Special Funds in support of peace in Northern Ireland have exceeded £1bn over several decades. That support was matched by the political goodwill of the European Union, championed by successive European Commission Presidents, to aid a reconciliation among the divided people of Northern Ireland. Evoking the imagery of the post-war Franco-German rapprochement, the EU was swift to dig deep into its pockets to resolve the continent's most intractable civil conflict (at least until the strife that consumed Yugoslavia in 1992). Hence, while the rest of the UK has witnessed a steady growth in 'Euroscepticism', manifest in the rising popular vote of the United Kingdom Independence Party (UKIP) (if not matched in seats in Westminster), debate in Northern Ireland was more muted. Certainly, while immigration has been evident locally, its scale has not been comparable to that in much of England, where the issue acquired far greater political salience.

The Referendum

After the largely unanticipated return of a majority Conservative Government in the 2015 General Election, with its manifesto commitment to hold an 'In/Out' referendum on UK membership of the EU, the tenor of the debate was ratcheted up sharply. Overall, for most of the referendum

campaign, the terms of the debate in Northern Ireland over the UK's continued membership of the European Union paralleled those elsewhere in the UK. Above all, in terms of the economic dimension of the issue, both the local Remain and Leave campaigns deployed many of the same arguments as their respective national counterparts, suitably nuanced to reflect the region's particular geography – sharing the UK's only land border with another EU Member State - and relatively depressed socio-economic conditions, having being particularly adversely affected by the impact of UK Government austerity by dint of the Province's heavy reliance on public sector employment, related activity and welfare dependency.

As the campaign opened, politically, Northern Ireland was predictably largely polarised, chiefly but not exclusively around the traditional fault lines that have characterised politics here since before its creation as a separate political entity. That is, the cleavage of ethno-national cum religious identity quickly determined the central division on the 'European question'. Perhaps nowhere but in Northern Ireland, could one see a biblical quotation in support of Leave adorning a gable end wall: "And I heard another voice from heaven, saying, Come out of her, my people, that ye not be partakers of her sins, and that ye receive not of her plagues." (Book of Revelation Chapter 18, Verse 4)

Hence, in the campaign, the demarcation was clear: the Nationalist parties (Sinn Fein and the Social & Democratic

Labour Party) were pro-Remain. For Sinn Fein, this represented a reversal of their stance in the 1970s since, among other factors, the party's emergence as a party of Government in the North, and vying to be so in the South, meant that its all-Ireland credentials demanded nothing less than endorsement of the whole of Ireland to remain in the EU. Nationalists were joined by the bi-confessional Alliance Party of Northern Ireland and the smaller of the main Unionist parties, the Ulster Unionist Party, though there were notable detractors among its ranks, including former senior figures, from this official position. For Leave, the largest of the Unionist parties, the Democratic Unionist Party (DUP), was foremost in its calls for the UK to quit the EU. The DUP was joined by the smaller Traditional Unionist Voice (TUV) and the local arm of UKIP.

Ultimately, therefore, the majority of the electorate in Northern Ireland behaved largely by reference to the issue which defines politics here, namely, the constitutional question and the border with the Republic of Ireland. Overwhelmingly, Nationalist voters heeded their political leaders, and plumped for the Remain argument. Conversely, Unionist voters heeded the advice of the largest political party, including the voice of the First Minister of Northern Ireland, Arlene Foster, and voted for the Leave campaign. Clearly, however, a significant minority of the Unionist electorate were sufficiently moved by the arguments to

'break ranks' and opt for Remain. Hence, the overall result in Northern Ireland was:

Remain	440,437	55.8%
Leave	349,442	44.2%

(In 11 of Northern Ireland's 18 Parliamentary constituencies, Remain prevailed)

Turnout 62.7%

In comparison, the rest of the UK endorsed leaving the EU by a far greater margin

Remain	16,141,241	48.1%
Leave	17,410,742	51.9%

Turnout 72.2%

Matters Arising and Some Unfinished Business

A string of 'matters arising' emanates from the referendum decision. As an issue, perhaps 'the' issue in Northern Ireland, 'the border' displays three particular aspects both literally

and psychologically. Firstly, there is what sort of border? For supporters of EU membership, the prospect of a 'hard' border re-emerging between the two jurisdictions was very real. That there had never been a 'wall' or fence as such was overlooked. However, for much of the period following the creation of Northern Ireland as a separate political entity, its land border with the South was policed to varying degrees, including with military support during periods of terrorist insurgency (most notably during the Troubles 1969-1996), coupled with 'normal' customs officialdom monitoring cross-border trade and movements. Hence, depending on the nature of the UK's relationship with the rest of the EU after any secession, there has been much speculation as to whether customs controls would be reintroduced, and even an end to the passport and visa free movement associated with the Common Travel Area (CTA) which had been in operation since 1923 – save for the period from 1939 to 1952 when, due to the national emergency of wartime conditions, cross border and indeed internal UK travel to/from Northern Ireland and Great Britain was restricted. Currently, the CTA involves an open borders arrangement that encompasses the Republic of Ireland and the United Kingdom of Great Britain and Northern Ireland, together with the British Crown dependencies of the Isle of Man, and the Channel Islands. Essentially, the CTA is based on legally non-binding arrangements, and its internal borders are subject to minimal or non-existent border controls whereby borders can usually be crossed by British and Irish citizens with minimal identity

documents, with certain exceptions. Necessarily, to function effectively, maintenance of the British Isles CTA involves considerable co-operation on immigration matters between the UK and Irish authorities.

Certainly, many advocates of Remain contended that a Brexit would necessitate the imposition of new controls though at whose instigation such measures would be introduced was less clear – would these be by the British Government, eager to staunch a possible flow by the ‘back door’ or would they be by the Irish Government at the behest of the European Union, eager to protect the Single Market and its attendant imposition of customs duties. Interestingly, there were mixed messages from advocates of Leave. For some hard-line Unionists, the introduction of a ‘hard’ border between the North and South of Ireland, would be greeted with glee, predicated on the logic that ‘dissident republican terrorism remains undefeated’ and that only with the most stringent of security measures could the authorities hope to combat it effectively. The Chair of the Vote Leave campaign was Lord Lawson, a former Chancellor of the Exchequer during Mrs Thatcher’s Government, though who fell out with bitterly – ironically over matters European, namely, Sterling shadowing the Deutschmark as a prelude to membership of the Exchange Rate Mechanism of the European Monetary System in 1989. Lawson indicated that some controls appeared unavoidable, were the UK to leave the EU. For her part, Teresa Villiers, the Secretary of State for Northern

Ireland, and fellow Leave campaigner, rejected all such notions, saying effectively that it would be 'business as usual' as regards the border – at least from a British perspective.

A second dimension to the border question concerns its location. Formally, of course, this is clear in international law, if sometimes less so to the naked eye in situ for it is a long and meandering line on the map, some 499 km (310 miles) in length, and punctuated with countless minor roads and byways – indeed, roads, farmsteads and even buildings sit astride it. In practice, both from a political and logistical perspective, attempting to establish a hard border would be both costly and highly contentious. Perhaps the controversy which any reinstatement might occasion would be equalled only by the rumpus that would ensue, were the UK Government to adopt an internal hard border at Northern Ireland's air and seaports for transit to and from Great Britain. Such a step would be anathema for Unionists. Quite apart from the added inconvenience such measures which necessarily entail for intra-UK travel, and the sense it would diminish their sense of Britishness in some way, the signal this would send to the Province – being interpreted as confirming Northern Ireland's pariah status within the UK – would be loud and clear.

In the words of one of the most celebrated Irish historians, James Camlin Beckett, the third dimension to the border question concerns 'the border in the mind'. That is, amid the regular and sometimes violent clash of identities –

Protestant, Catholic, British, Irish, Northern Irish, Unionist, Nationalist, Loyalist, Republican – in Northern Ireland, what does the idea of Europe mean and what actual difference does it make? Specifically, as given expression in its nascent political cum governmental entity known first as a European Community, latterly post-Maastricht, as a European Union, Europe offered a form of sanctuary in which ancient and bitter enmities might be safely parked. Ever since both the UK and Republic of Ireland acceded to the Treaty of Rome in 1972, at the height of the 'Troubles' in Northern Ireland, there has been a substantial body of opinion among academics, politicians, advisers, policy makers and other commentators that both states' subsequent shared membership of the Common Market provided a neutral space in which their intergovernmental relationship and efforts to find a solution to political and communal strife in Northern Ireland might bear fruit. In many ways, the Good Friday or Belfast Agreement of 1998 effectively removed the border from Northern Ireland politics and the immediate calculations and actions of its politicians. The agreement ensured the border was 'detoxified' as a potent issue bedevilling each and every move of the politicians. With Brexit, will atavistic tendencies, perhaps prematurely thought to have been safely diffused, or at least rendered largely impotent, be reignited? In truth, few locally speak with much affection or enthusiasm for their European identity but the 'fact of Europe' did at least afford a sense that one could possess several indeed multiple identities, and not feel threatened, effectively rendering the

border of 1921 as little more than a line on the map, and a slowly dissolving one at that.

To all of these points must be added a further consideration. The status quo ante of British-Irish relations and identities pre-1973 is out of reach even if it were thought desirable. For its part, 'Irish identity' as enunciated through the organs of the Irish State and other key stakeholders and opinion formers such as the media in the Republic of Ireland have, in key respects, morphed in their acknowledgement that 'being Irish and/or of Ireland' meant more than exclusively being 'Catholic, Republican, and Insular'. Likewise, what might one say of British identity? Necessarily more complex than its Irish counterpart, given it encompasses several nations and a much larger and more diverse population, British identity has changed even more dramatically. Moreover, in Great Britain's most restless corner, that of Scotland, a resurgent and distinct Scottish identity has been evident. It is increasingly alien from and indeed often hostile to that overarching sense of Britishness and has been given an enormous fillip by the albeit failed attempt at securing secession in the independence referendum of September 2014 and, most recently, by the decisive vote in every electoral district of Scotland, in favour of remaining in the EU. Amid the renewed clamour in several quarters for the voters' appetite for Scottish independence to be re-tested through a second plebiscite, as a means of safeguarding a continued or renewed Scottish representation in the EU, were such calls to

be heeded and the separatists to prevail in their intent, then what is left of Britishness?

That family of nations in the United Kingdom, that British Union, cementing England, Wales, Northern Ireland and Scotland would be torn asunder – arguably a disaster all round but a truly cataclysmic prospect for those of avowedly British identity in the Province of Northern Ireland, who well may be left asking ‘still loyal, but to what?’, if the entity to which they cleave so strongly, is itself left broken. Certainly, Northern Ireland’s Unionists would remain unswervingly loyal to the British Crown and Union, whatever residual territorial entity (dubbed ‘rest of UK’ or ‘rUK’) that might survive a Scottish secession. However, the risk is that such professed continuing devotion to the Union would be an unrequited love, with England becoming increasingly weary of a restless Celtic fringe. What then the prospects for peace and stability in Northern Ireland? Even after twenty years of relative quiescence following the cessation of the ‘Troubles’, there remains a sense in which peace in Northern Ireland is rather too conditional, with little being needed to re-ignite dormant enmities. Hence, might Scotland’s breakaway be the touchpaper for a resumption of political violence in Ireland?

Other issues

The referendum and the prospect of UK secession from the EU has also raised other questions. In common with its national counterpart in Whitehall, it is now clear that the devolved governmental machine at Stormont was woefully unprepared for what has come to pass. Yet, there are key issues that remain to be resolved and the role or scope for the devolved Government to influence and shape.

First, in a region where a large proportion of the population remains heavily dependent on farming, the issue of how agriculture and fisheries will fare is prominent. Given the structural composition of the EU budget, Northern Ireland has been a major net beneficiary of farm support payments under the Common Agricultural Policy (CAP). In short, what regulatory and subsidies regime, if any, will be introduced if/when CAP and the Common Fisheries Policy no longer apply in Northern Ireland. Will the UK simply adopt a 'cut and paste' UK-version of CAP, at least to maintain the current subsidy regime and levels for a transition period? Will it revert to the old post-war deficiency payments system of income subsidies and price supports? And, whatever eventuates, will there be a devolved dimension to the arrangements allowing regional priorities and conditions to be taken into consideration by locally elected politicians?

Second, in common with universities throughout the UK, there are major implications for the higher education sector

in Northern Ireland in relation to university research funding (Horizon 2020) and exchange programmes (such as Erasmus), as well as for the level of fees. While there have been calls for 'business as usual' and assurances that existing arrangements will be honoured, alarm has greeted the prospect of UK universities being locked out of a lucrative source of alternative research funds at a time when they are already facing financial stress. Moreover, even if mechanisms can be engineered to afford continued access to such funds, there is a fear that the levels of engagement in crucial research networks might be compromised by Brexit, not to mention rendering the UK a less attractive proposition for highly mobile and talented academics.

Third, the nature of North-South Cooperation in Ireland will be altered dramatically by Brexit. To that end, Enda Kenny, the Prime Minister of the Republic of Ireland, together with a swathe of mainly Nationalist politicians in Northern Ireland, has called for an all-Ireland forum to consider how best to manage the implications of Brexit. In response, Arlene Foster, the First Minister in Northern Ireland, has declared emphatically 'no' to the convening of an all-Ireland Brexit forum while the Deputy First Minister, Martin McGuinness, has said that a failure to do so could once again threaten the stability and continuity of the devolved arrangements, so painstakingly put back on track after several earlier episodes of trauma. By way of overcoming the impasse, it has been suggested that this role could be subsumed within the remit

of the existing North-South Ministerial Council, one strand of the three-stranded Belfast Agreement 'confederal' architecture that spans the British Isles, long viewed as a fig leaf for Northern Nationalists devoid of serious business or responsibility, but now suddenly in a pivotal role. Whatever the format for such intergovernmental negotiations, Stormont and Dublin might do well to agree on the nature of the border, henceforth. On the thorny issue of passport controls, while neither country is signatory to the Schengen Accord, neither has any appetite for introducing such controls. For these reasons among others, it will be important that representatives of the devolved Government along with their counterparts from Scotland and Wales are included in UK level deliberations over the country's negotiating stance with the EU, once Article 50 is invoked.

Fourth, long before the referendum, the devolved Government in Northern Ireland has been exploring the scope to secure a further measure of fiscal devolution, specifically, via variation in corporation tax. Under the 'Azores ruling' by the European Court of Justice in 2006, on the scope and nature of variation in corporation taxation within Member States, Northern Ireland had pursued the option to lower corporation tax to equal the effective equivalent rate in the Republic of Ireland (12.5 per cent), commencing April 2018. It had been through tortuous negotiations with the UK Treasury to conclude the terms for the devolution of this key fiscal lever. However, the recent

cuts in the UK national rate of corporation tax (to 20 per cent, and due to fall further by 2020), it means that the competitive edge sought from a locally funded lower rate of corporation tax will be substantially blunted, though it would, at least, imply the earmarked funds to pay for such a reduction can now be wired into one or more of the many other deserving causes within Government. If not the whole UK, then could Northern Ireland experience a 'soft' Brexit, and remain as part of the EU's Single Market – possibly along with Scotland – while the bulk of the UK remains outside? Ostensibly, the answer is no. However, while there is no precedent for such an outcome, there is no precedent for Brexit either. The EU will share the desire of both the UK and Irish Governments to avoid artificial distortions of trade and commerce on the island of Ireland. Moreover, in a post-Brexit scenario, depending on the nature of renegotiated terms of trade that might eventuate, does EU competition policy and other rules on state aid no longer apply or at least with the same force, thereby allowing Westminster to channel compensating funds to depressed areas. Again, Brussels will want to avoid a Dutch auction of beggar thy neighbour fiscal competition and any attendant downward pressure on national tax receipts. Similarly, given Northern Ireland has not experienced the intensity of the pressures of mass immigration experienced in England, there is also a concern around staff shortages in key sectors of the economy and public services, chief among which is the health service.

A fifth issue concerns the fate of EU legislation on the UK statute book and the process of untangling what has become a complex of legal provisions. That is, how much, if any, will remain, be scrapped or be amended and what role, if any, will be afforded to devolved fora such as the Northern Ireland Assembly (let alone local government)? Although references to subsidiarity have largely disappeared from the political discourse around the appropriate interface of European and national law making, the concept remains highly pertinent in the context of UK secession from Europe. With the very future integrity of the UK again in question, given popular attitudes in Scotland, a measure of flexibility and magnanimity on the part of London towards its restless territorial estate may well be both politically expedient and necessary if the fissiparous pressures of secession are not to prove irresistible.

Assuming Brexit occurs, there has been much speculation around the possibility of contagion effects for neighbouring countries. In short, will others seek to follow suit, where the UK has plotted a new course? For the Republic of Ireland, there appears little enthusiasm to join the UK in heading for the exit. However, British secession does present the Irish Republic with positive opportunities as the sole English-speaking country in the EU. Although the Celtic Tiger roars no more, Ireland's bounce back from the nadir of the 2008 financial crisis has still been remarkable, particularly in contrast to its more troubled southern European

counterparts. Will it, therefore, exploit its position as the new 'lynchpin' between the EU and North America? Conversely, will any such gains be offset by adverse currency and banking sector developments vis-à-vis Ireland's largest market, the UK? Cross-border trade, especially if Sterling remains depressed relative to the Euro, will occasion a dramatic net flow northwards. Similar conditions previously in 2009 had a crippling effect on border businesses and the Irish Exchequer, notably from depressed VAT receipts, when Sterling was last at near parity with the Euro. For Northern Ireland's exporters, that same currency movement offers a potential boon, both into the EU as well as further afield. Whether they will then be able to exploit it remains to be seen.

Outlook

The outcome of the UK's referendum on continued membership of the European Union has delivered a decisive message. While the details of how and when or even if any secession takes effect, and the nature of the subsequent UK-EU relationship, remain to be determined, the implications for the whole country will be profound. For Northern Ireland, with its land border adjoining the Republic of Ireland, the impact of Brexit will have greater ramifications. It will be in the interests of both parts of Ireland, North and South, and their respective sovereign governments, to explore how best

to mediate their relationship in the new dispensation, to mutual advantage.

Endnote

1. I am grateful to Professor Arthur Aughey, Emeritus Professor, Ulster University, for his helpful advice in advance of the preparation of this paper.

7. Moving Towards a Dissolved or Strengthened Union?

Arjan H. Schakel

The Scottish National Party (SNP) stated in its manifesto for the May 2016 Scottish Parliament election that it would consider holding a second independence referendum if there was a material change of circumstances, such as the UK leaving the EU. A slight majority (51.9 per cent) voted in favour of leaving the European Union (EU) but in Scotland a clear majority (62.0 per cent) wants to remain in the EU. Since then there is an intensive political debate and negotiation about the relations between Scotland and the rest of the United Kingdom and the European Union. What is the likely outcome of this debate? Is Scotland wandering on the path of secession?

In contrast to what many people would think, I will argue that a strengthened Union is a more likely scenario than a dissolved Union. Such a counterintuitive conclusion is based on an assessment of the causal drivers of devolution in the UK. Therefore, I will explore whether external (European integration) or internal (nationalist parties) pressures are driving Scottish nationalism. I will put Scotland's autonomy arrangement in a comparative perspective to see if further decentralisation would be possible and what it could look like.

It appears that Scotland has many *self-rule* powers but *shared rule* with England and the other devolved administrations is underdeveloped. My analysis suggests that Scottish independence is unlikely to happen. Rather, more devolution, involving a development of *shared rule*, will strengthen the Union with England.

European Integration and Regionalism

European integration is often portrayed as a story of Member States pooling their authority to collaboratively decide and implement policy. But there is another story to European integration: a widening and deepening Europe coincides with a trend of increasing regionalism. This was already observed in the early 1990s by Gary Marks (1992), who studied the reforms of the European Community's structural funds policy in the course of the Maastricht Treaty. A state-level approach could neither satisfactorily explain why there had been fundamental innovations in the administration of structural funds nor account for the considerable growth of funding.

Subnational governments had become increasingly important for implementing EU policy most notably cohesion policy and structural funds (Marks 1993, 392). The involvement of regions in European structural policy went along with calls for more regional authority (Jones and Keating 1995; Jeffery 1997), and with the creation of the

Single European Market regions became less economically reliant on domestic markets. Some scholars postulated a vision of a 'Europe *of* the regions', or more modestly, a 'Europe *with* the regions' in which power was devolved upwards to the European level or downwards to the regional tier (Piattoni, 2009).

What is the nature of European integration and regionalism in the UK? To what extent can devolution in the UK be related to the process of European integration?

The Regional Authority Index (RAI) (Hooghe et al. 2016) allows me to systematically trace trends in decentralisation of government authority across countries and time. The RAI breaks down regional authority into two dimensions. *Self-rule* is the power exercised by a regional government over citizens within its territory. For example, the German *Länder* have the competences to shape policy with regard to culture, education, universities and the police. *Shared rule* is the authority of a regional government co-exercised in the country as a whole. In Germany, *shared rule* takes two forms. The executive governments of the *Länder* appoint representatives in the *Bundesrat*, which is an upper chamber of parliament with veto powers over many federal laws. The *Länder* can also shape national policy and coordinate policies through *Ministerkonferenzen* in which ministers of the *Länder* meet with federal ministers.

The RAI provides autonomy scores for regional governments in 81 countries between 1950 and 2010. Figure 1 displays average RAI scores for four groups of countries showing that regional authority has increased over time. In the EU, in 'west old democracies' (i.e. Belgium, France, Germany, Netherlands) average regional authority increased slightly from ten in 1950 to almost sixteen in 2010. Regional authority also increased in countries which democratised (e.g. Greece, Portugal, Spain) and in countries anticipating EU membership (e.g. Hungary, Poland, Romania).

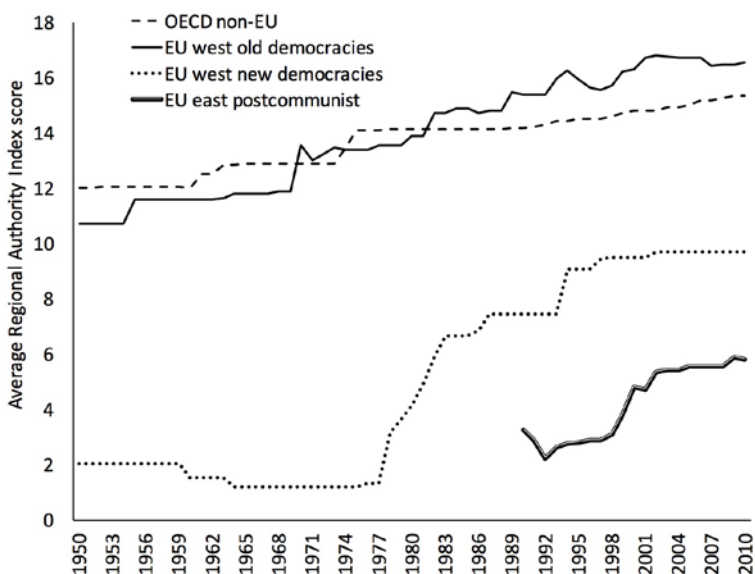


Figure 1: Average regional authority index scores for four groups of countries between 1950 and 2010.

The rise of regional authority in EU countries suggests a causal link between European integration and decentralisation processes. However, regional authority has also increased in countries outside the EU. The average RAI score for OECD non-EU countries (e.g. Australia, Canada, New Zealand, US) increased from twelve points in 1950 to 15 points in 2010. This indicates a global rather than a European-specific decentralisation trend and raises the question for other causes of regionalism. The next section, therefore, looks into nationalist parties as drivers for decentralisation. What is the role of the SNP in Scotland and Plaid Cymru (PC) in Wales for devolution in the UK?

Regionalist Parties and Regionalism

Alongside a coinciding trend of European integration and decentralisation reforms, scholars have also noted a rise in nationalist (often also referred to as regionalist) parties, especially since the 1970s (De Winter et al. 2006; Matthias 2006). The electoral development of regionalist parties – defined as parties which prioritise autonomy claims – is displayed in Figure 2. Clearly, these parties are on the rise in national and regional elections.

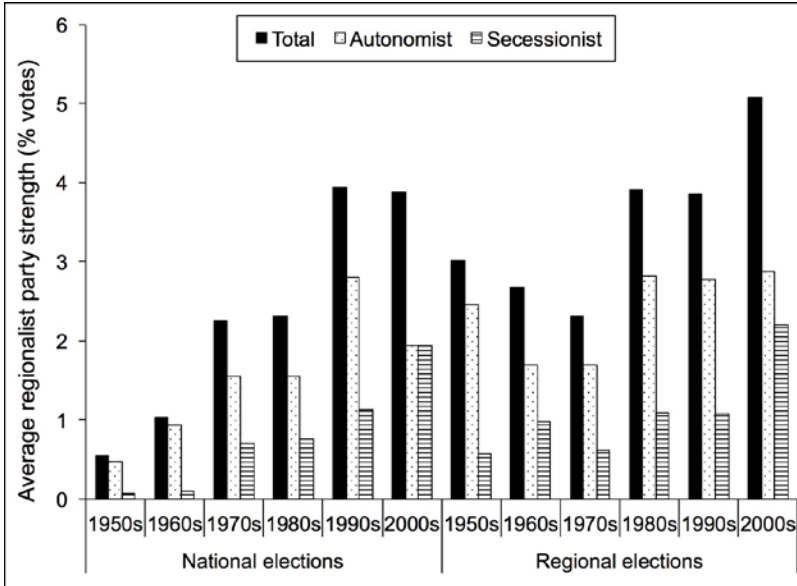


Figure 2: Average regionalist party strength in national and regional elections.

Notes: Average regionalist party strength is derived by dividing the sum of regional vote shares for all regionalist parties by the total number of elections for each decade and the average includes elections where regionalist parties did not participate.

Decentralisation is not only promoted by European integration but also by regionalist parties, as in the UK. This raises the question how European integration, decentralisation and regionalist parties are connected to each other.

Regionalist parties can be distinguished between parties that challenge the unity of the state and want to become an

independent country (secessionist parties) and those who do not challenge the unity of state but seek more autonomy (autonomist parties). Both types of parties have seen their average vote share increasing but especially secessionist parties have been on the rise in the 2000s (Figure 2). Not only have regionalist parties become electorally stronger but also more radical. Previous research has shown that decentralisation reforms foster a radicalisation of regionalist parties. A change in RAI score from 1 to 20 increases the probability that a regionalist party is a secessionist party from 10 per cent to 60 per cent (Massetti and Schakel 2013). Hence, it appears that European integration alone is not a likely driver for devolution in the UK but that electorally growing and ideologically radicalising regionalist parties are a more likely cause.

European Integration, Regionalist Parties and a Dissolving United Kingdom

In order to gain insight on the question whether European integration and/or regionalist parties are driving devolution, I look at regional variation in voting during the Brexit referendum and I track the electoral developments of the main regionalist parties in Scotland (SNP) and Wales (PC). In Wales, 52.5 per cent of the voters opted for Leave which is very close to the result in England (53.4 per cent). In Scotland, however, 62.0 per cent of the voters wanted to remain in the

EU. This result indicates that Scotland is far more Europhile than the rest of the UK (in Northern Ireland 55.8 per cent of the voters want to remain in the EU).

The stark contrast in the referendum result has led to a discussion whether there should be a second referendum on Scottish independence. Public opinion towards the EU is used by the SNP as a legitimisation to have a second independence referendum and in this way European integration may be indirectly furthering devolution in the UK. But it is clear that the impact of European integration is mediated by regionalist parties. This point is further illustrated by having a look at Wales where a clear majority of voters want to leave the EU. This is a surprising result considering that at a very conservative estimate Wales enjoys an annual net benefit of £245 million from the UK's relationship with the EU. Richard Wyn Jones (2016) ascribes this remarkable result to a failure of Welsh politicians to inform voters about the benefits of EU membership.

Wyn Jones' explanation hints that the impact of European integration on devolution in the UK is most likely an indirect one and is mediated by regionalist parties which can use public opinion towards the EU as a legitimisation for further decentralisation reforms. The extent to which regionalist parties do so will depend on whether they think they will electorally benefit from 'exploiting' the EU. This is far more likely for the SNP than for the PC because in Wales voters

tend to be more Eurosceptic. The SNP can benefit from emphasising European issues whereas PC cannot.

From Table 1 one can observe that the electoral results for PC are quite stable over time, no matter whether PC is in regional government or not. In Scotland, however, the SNP has been on the rise and since 2011, when it formed a single-party government, it is the dominant party in Scotland. Thanks to a recent referendum on Scottish independence in 2014 and further helped by Brexit, decentralisation demands have intensified far more in Scotland than in Wales. However, in the case when the SNP manages to extract more authority from London, my argument is that a strengthened Union is more likely than a dissolved Union.

Scotland: Scottish National Party						Wales: Plaid Cymru					
Holyrood			Westminster			Cardiff			Westminster		
Year	Votes	Seats	Year	Votes	Seats	Year	Votes	Seats	Year	Votes	Seats
1999	28.1%	27.1%	1997	22.1%	8.3%	1999	29.5%	28.3%	1997	10.0%	10.0%
2003	22.3%	20.9%	2001	20.1%	6.9%	2003	20.4%	20.0%	2001	14.3%	10.0%
2007	32.0%	36.4%	2005	17.7%	10.2%	2007	22.0%	25.0%	2005	12.6%	7.5%
2011	44.7%	53.5%	2010	19.9%	10.2%	2011	18.6%	18.3%	2010	11.3%	7.5%
2016	44.1%	48.8%	2015	50.0%	94.9%	2016	21.2%	20.0%	2015	12.1%	7.5%

Table 1: Electoral results for the Scottish National Party and Plaid Cymru.

Notes: Shown are the electoral results for PC and SNP in Holyrood (Scottish Parliament), Cardiff (Welsh Assembly) and Westminster (Parliament of the United Kingdom) elections. 129 seats are at stake in Holyrood elections and 59 (72 for 1997-2001) seats are at stake in Westminster elections. 60 seats are at stake in Cardiff elections and 40 seats are at stake in Westminster elections. Vote percentages for Westminster elections refer to the votes won in Scotland and Wales. Figures in bold indicate the elections when the regionalist party was forming regional executive government.

Scotland's Autonomy Arrangement

In order to substantiate my argument, I will first discuss Scotland's autonomy arrangement in detail to identify the areas in which further devolution is likely. Three considerations are important for the question, whether the UK is moving towards a dissolved or strengthened Union. First, is a further decentralisation of authority possible for Scotland or does more devolution automatically entail secession? And if further decentralisation reforms are possible, in which areas? Second, devolution is essentially a bargaining process between regionalist and statewide parties and thereby the preferences of these parties are likely to inform possible decentralisation reforms. Third, once there is room for further decentralisation and the preferences of parties are favourable towards more devolution then the question pops-up what the new autonomy arrangement will look like?

Starting with the first consideration, we can usefully employ the Regional Authority Index again. Scotland's autonomy is far reaching (Table 2). The region has its own parliament which elects its own executive (*representation*) and which can make laws on a wide variety of policies except immigration (*policy scope*) without interference from central government (*institutional depth*). Further decentralisation on the *self-rule* dimension is conceivable, especially on the fiscal side. Scotland can set a rate on income tax (three pence in the pound) (*tax autonomy*) but has never used this power and

when the region would like to borrow it can only do so through national government (*borrowing autonomy*).

Self-rule	Max	Scotland	Shared rule	Max	Scotland
Institutional depth	3	3	Law making	2	1.5
Policy scope	4	3	Executive control	2	1
Tax autonomy	4	3	Fiscal control	2	0
Borrowing autonomy	3	1	Borrowing control	2	0
Representation	4	4	Constitutional reform	4	4
Total	18	14	Total	12	6.5

Table 2: Scotland’s autonomy arrangement compared to maximum scores.

Space for further devolution can be especially found on the *shared rule* side of the autonomy arrangement. Whereas Scotland has the institutional means to voice its opinion with regard to UK legislation in the region (*law making*) and has, in practice, a veto on its own *constitutional status* through the Sewel convention, it lacks powers on executive and fiscal matters. Intergovernmental meetings between London and Edinburgh are restricted to non-binding bilateral and inter-departmental concordats and pacts, and Scotland has virtually no say or powers to alter the Barnett formula which regulates the unconditional fiscal grant from the UK to Scottish government. In sum, future decentralisation reforms are likely to include fiscal reforms and most ‘gains’ can be achieved with regard to *shared rule*.

The SNP realises that Scotland is lacking competences in raising taxes and in citizenship and immigration and states that it would like to have competences over these policies

(SNP 2013). None of the three main statewide parties are in favour of an independent Scotland but they do support further devolution to Scotland, in particular with regard to income tax and welfare (attendance allowances, housing benefits and supplements) (Conservatives 2014; Labour 2014; Liberal Democrats 2014). Given the convergence between the preferences of the SNP on one side and the three major statewide parties on the other side, it is not surprising that the Scotland Act 2016 gives Scotland the power to set income tax rates and bands and the right to receive half of the revenues of value added taxes raised in Scotland. In addition, the Scotland Act 2016 extends the powers over employment support and universal credit, and Scotland can now top-up cuts to tax credits specified in Westminster legislation. In other words, the space for increased autonomy on *self-rule* has been filled up with the latest Scotland Act of 2016 with the exception of immigration and citizenship. Hence, more *self-rule* is hardly conceivable unless Scotland, indeed, secedes.

This is something the SNP does not want despite the fact that they use the word 'independence' constantly. In the document *Scotland's Future*, the SNP clearly outlines that it wants to keep five Unions. The party does not want to leave the EU, wants to remain in NATO, wants to keep the Pound Sterling and the monarchy, and wants to keep up a social union with the rest of the UK (SNP 2013). What the SNP envisages as independence can be better described by 'full

autonomy' or 'autonomy to the maximum' rather than secession because keeping the Pound, the monarchy and the welfare state of the UK necessarily implies remaining part of the Union.

The need for intergovernmental meetings is acknowledged by the three statewide parties. The Conservatives would like to have a 'Committee of all the Parliaments and Assemblies of the United Kingdom' which 'should be created to consider the developing role of the United Kingdom, its Parliaments and Assemblies and their respective powers, representation and financing' (Conservatives 2014). This comes very close to what the Liberal Democrats (2014) suggest: 'The Secretary of State for Scotland should convene a meeting after the referendum, within thirty days, where parties and wider interests can meet. Its aim should be to secure a consensus for the further extension of powers to the Scottish Parliament'. More formalised intergovernmental meetings are proposed by the Labour Party (2014, 5) which envisages 'Partnership arrangements between Parliaments and Governments whose responsibilities will inevitably overlap should be established, so that they work together for the common good, safeguarding civil and political rights, and promoting social and economic rights such as welfare and full employment. *There is a strong case for giving partnership arrangements a legal existence, in the form of statutory obligations on both administrations to co-operate in the public interest, or through the creation of a formal Intergovernmental*

Council or its equivalent with the duty to hold regular meetings' (emphasis added).

The need for cooperation between the UK governments is also acknowledged by the SNP but the party does use the 'lingo' normally reserved for international relations between countries:

With our immediate neighbours in the British Isles and Northern Europe, independence will create opportunities for co-operation, with future governments able to engage as equals in partnerships that enhance Scotland's position in relation to important policy areas including energy, tourism, security and culture. (SNP 2013, 212)

Independence will allow Scotland and the rest of the UK to work together on matters of common interest, *as nations do across the world*. This will include current cross-border arrangements on health treatments, combating serious and organised crime and terrorism and administrative arrangements to deliver services to the people of Scotland and the rest of the UK when this makes sense (ibid., 216; emphasis added).

Scotland's most important *diplomatic relationships* will be with the rest of the UK and Ireland, reflecting cultural history and family ties, shared interests in trade, security and common travel. The current Scottish Government plans a substantial *diplomatic presence* in both London and Dublin and will be active participants in the British-Irish Council, the

secretariat of which is already based in Edinburgh (ibid; emphasis added).

In sum, party preferences converge on the need for intergovernmental meetings to coordinate policy but they remain silent on how these intergovernmental relations should look like, which form it should take and which policies it should cover. The Scotland Act 2016 is almost exclusively concerned with *self-rule* powers whilst *shared rule* is not addressed. Any further devolution is, therefore, most likely to involve intergovernmental meetings. The discussion on *self-rule* already revealed that dissolution is not likely to happen because, in the end, the SNP wants to keep the monetary, monarchic, and social Union with the rest of the UK. Further decentralisation is conceivable with regard to *shared rule* but will these kind of reforms strengthen or weaken the Union(s)?

Scenarios for Scotland's Autonomy Arrangement

Scotland is an autonomous region which means that it has its own and unique autonomy arrangement within a country. This is quite common for regions with electorally strong regionalist parties. In Table 3, the Scottish *shared rule* arrangement is compared to those of its peers, that is other special autonomous regions in Europe. Basque Country, Catalonia, Aland and Faroe Islands score low for *law making* and *constitutional reform*, while Scotland has comparatively

high scores. In case of *fiscal control*, Bolzano-Bozen and Valle d’Aosta can also inform possible decentralisation reforms for Scotland. I will discuss each *shared rule* dimension in turn.

Autonomous region	Total	Law making	Executive control	Fiscal control	Borrowing control	Constitutional reform
Basque Country	10.5	0.5	2	2	2	4
Catalonia	9.5	0.5	2	1	2	4
Faroe Islands	8	1	1	2	0	4
Aland	8	1	1	2	0	4
Scotland	6.5	1.5	1	0	0	4
Wales	6.5	1.5	1	0	0	4
Bolzano-Bozen	4	0	1	1	0	2
Valle d’Aosta	4	0	1	1	0	2
Corsica	2.5	0.5	0	0	0	2
Maximum	12	2	2	2	2	4

Table 3: Scotland’s autonomy arrangement (*shared rule*) compared to other autonomous regions in Europe.

With regard to national *law making* Scotland can veto Westminster laws through the Sewel convention which stipulates that the UK Parliament will not legislate with regard to devolved matters except with the agreement of the devolved legislature. According to the Sewel convention, three categories of provision are not enacted in primary legislation at Westminster unless the devolved assemblies give their consent: (1) provisions that would be within the legislative competence of the devolved executives; (2) provisions that would extend the executive competence of the devolved assemblies; and (3) provisions that would alter the legislative competence of the devolved assemblies. The Sewel convention effectively grants Scotland a veto on its

own autonomy arrangement and this is the maximum which can be achieved.

Most autonomous regions, including Scotland, do not have a say in national and regional borrowing except for the Basque Country and Catalonia. These two regions exercise *borrowing control* through a multilateral council on fiscal policy and finance (*Consejo de Política Fiscal y Financiera*). However, this mix of multilateral and bilateral *shared rule* seems to be a Spanish exception. *Borrowing control* is conceivable for Scotland but in a multilateral rather than a bilateral format, which would require that the UK government regularly meets with the devolved governments to take binding decisions on government borrowing.

All in all, it seems that most scope for further devolution is in *executive control* and *fiscal control*. What decentralisation reforms can be conceived in relation to *executive control*?-This could involve upgrading to the Joint Ministerial Committees by regular meetings where formal and binding decisions are taken on a wide range of policies, and, when desired because of diverging regional interests, the devolved governments can decide to participate in binding legislation or not.¹

Scotland's *fiscal control* arrangement stands in stark contrast with those for other autonomous regions (Table 3). Scotland receives most of its income through an unconditional grant from the UK government determined by the Barnett formula which gives the devolved administrations a proportionate

share of spending on comparable functions in England, given their populations compared to England. The Barnett formula falls under the complete purview of the Treasury. The devolved administrations are consulted on an *ad hoc* basis and in case of disagreement, the devolved administration, or Secretary of State can pursue the issue with the Treasury but the Treasury makes the decisions. Alternative *fiscal control* arrangements can be found in Bolzano-Bozen and Valle d'Aosta which are consulted on and in Aland and Faroe Islands which can negotiate the tax revenues allocated to their region. The Basque Country has a special fiscal agreement (*Concierto*) with the central government whereby the region administers and collects taxes and pays a contribution (*cupo*) to the central government for the services provided by central government in the region. In addition, fiscal matters are discussed in a multilateral fashion in the council on fiscal policy and finance.

Conclusion

A comparative 'global' perspective, as well as a UK-focused 'local' study, strongly suggest that electorally strong and radicalising regionalist parties are a major cause for decentralisation reforms. European integration is at most an intermediating factor as regionalist parties may use 'Europe' or the 'European Union' as a legitimation to further their autonomy demands. A dissolving UK is unlikely to happen

because a closer look at how the SNP understands independence reveals that they would like Scotland to be in a monetary, monarchical, and social welfare Union with the UK, as well as in a defense and international Union with NATO and the EU. The preferences of the SNP and the three statewide parties, that is Conservatives, Liberal Democrats and Labour, clearly converge on further devolution reforms, especially with regard to tax powers and welfare policy. In the aftermath of the referendum on Scottish independence this is exactly what happened with the adoption of the Scotland Act 2016. While it is highly likely that the Union will not dissolve, this still leaves open the possibility that the Union will become weaker.

A comparison of Scotland's autonomy arrangement to those of other autonomous regions illustrates that further decentralisation is conceivable with regard to *shared rule*, in particular regarding *borrowing*, *executive* and *fiscal control*. However, when devolution proceeds in those realms, it could actually mean that the Union will be strengthened because it would require regular and formal meetings between the devolved administrations and the UK governments to arrive at binding decisions on national and regional borrowing, UK legislation and fiscal transfers from Westminster to the regions.

The Brexit negotiations will involve intense and frequent negotiations between the UK government and the EU but will also involve the devolved administrations. In practice, the

Joint Ministerial Committee on European Affairs is the only channel through which Scotland can try to negotiate a favourable position for itself after a Brexit. The upshot is that *shared rule* will increase and that the UK is bound to move towards a strengthened Union.

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Endnote

1. After devolution a memorandum of understanding was signed in 1999 to set up a Joint Ministerial Committee which entitles the regional governments to consult with the UK government on legislation that impinges on them or to resolve disputes between regional and UK governments. With the exception of the EU affairs committee, the JMC did not meet regularly until 2008. However, consultations are non-binding and intergovernmental relations mainly take place through non-binding and inter-departmental concordats and pacts.

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