Perspectives

Brexit and the Power of Historical Narratives

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This essay is an updated and shortened version of a lecture given in July 2019 to the *Frankfurter Wirtschaftspolitische Gesellschaft von 1947*. It addresses a number of questions that connect the Research Fields 'Legal Transfer in the Common Law World' and 'Legal History of the European Union' at the Max Planck Institute for European Legal History in Frankfurt.

Brexit Day

1   It was meant to be the moment in time when 'church bells were rung, coins struck, stamps issued and bonfires lit to send beacons of freedom from hilltop to hilltop'. Those celebrating were to be seen 'weaving through the moonlit lanes of Sussex, half blind with scrumpy, singing Brexit shanties at the tops of their voices'. Such was the vision of Brexit Day offered by then newspaper columnist Boris Johnson, now Prime Minister of the United Kingdom, three days before the UK was first supposed to withdraw from the European Union (*Daily Telegraph*, 26 March 2019).

2   In reality, it was significantly quieter when the UK finally left the EU on 31 January 2020. What remained striking, however, were the endeavours of the 'Brexiteers' time and again to work with historical imagery. Bonfires? These burn annually up and down the country to commemorate the uncovering of the Gunpowder Plot of 5 November 1605, the plan of Guy Fawkes and further catholic assassins to blow up the Houses of Parliament together with the King. 'Remember, remember! The fifth of November', begins the verse that English schoolchildren learn to recite. Church bells, cider and moonlit lanes? These evoke the idyll of a rural England that has long since vanished. The analogies know no limits. Politicians are not afraid to equate the EU with the Soviet Union, to describe Member States as 'vassals', or to call the day of the referendum 'independence day', thus alluding to the American Revolution.

3   The 'Remainers' have long mocked this sort of reminiscence. This is also true of professional observers and explainers, of journalists and academics, particularly those from abroad. Almost without exception, they were surprised by the result of the 2016 Brexit referendum. The decision to leave was taken as irrational and an act of wilful self-harm. There was a certain sense of bewilderment, not least amongst Germans, that a people generally known as the paragon of common sense and sober pragmatism would take what appeared to be such an obvious economic and socio-political wrong turn. How could this happen?

4   For a start, there might be different understandings of common sense at play. Let us assume, with the *Oxford English Dictionary*, that arguments from common sense are those that appeal to or are in accord with our instinctive understanding and sound judgement. Such innate and tacit understandings are bound to be conditioned by our experiences, past and present, and these experiences will differ from one country to another. Once they are taken into account, and particularly when the UK and the German experiences are contrasted, the outcome of the referendum appears to be much less outlandish than many foreign observers are prepared to believe.

5   When looking at present and past experiences it is possible to distinguish three types of cause underlying the vote to withdraw from the EU: immediate causes, as examined by the social sciences; recent causes, as studied by contemporary historians; and profoundly long-term causes, as analysed by historians concerned with the more distant past. The latter are the focus of this essay because they have been less commented upon so far; yet they might have been decisive in the vote to leave: the power of historical narratives remains strong.

Immediate Causes: The Perspective of the Social Sciences

6   Most explanations offered for the result of the referendum relate to contemporary factors. The first of these is the economy. The rigid austerity in the public sector in the decade after the 2007/2008 financial crisis led to real income losses and a drastic scaling back of public services. Public libraries were closed, schools left crumbling. The provision of healthcare, though one would barely have thought it possible, declined even further. The North-South divide deepened, along with the gap between London and the rest of the country. Whole areas and generations felt and feel left behind. The referendum can thus be seen as sounding the alarm bells in order to put the political class on notice.

7   In fact, according to the second explanatory approach, the result of the referendum mirrors populist dissatisfaction with elites. This was not only directed against the political class, which the British public still had not forgiven for the parliamentary expenses scandal that had emerged in 2009. It also targeted the 'experts', whose predictions were met with suspicion. Was it not the case that even her Majesty had humiliated economists with the naive question as to why they had not seen the financial crisis coming?

8   A third cause of the result, we are told, was the on- and offline disinformation campaign before the referendum: the dissemination of 'fake news', the distorted reporting on the functionality of the European Union, and the legendary bus with the unfeasible promise to redirect the national contribution to the EU budget directly to the NHS—350 million pounds per week.

9   Fourth, it is said that the Brexiteers took advantage of nationalist, xenophobic, and at times openly racist attitudes of the public. Germany's conduct during the migration crisis in the summer before the referendum stirred up fears of an infiltration of foreigners, be it the hundreds of thousands of eastern Europeans that were already in the country, or the 80 million Turks who were allegedly sitting on packed suitcases.

10   Fifth, and finally, it has been pointed out that the result of the referendum was distorted by conscious or unconscious decisions on the eligibility to vote and the voting modalities. This led to a situation where many of those who would have voted to remain were not entitled to vote or could only do so with a great deal of effort. This group included students and UK citizens residing on the continent.

11   Economists, political scientists, sociologists, and media scholars have extensively analysed all of these phenomena. There is no doubt that the factors they identify were hugely influential in the outcome of the referendum. At the same time, they suggest a certain historical contingency: perhaps it could have all been so different, and insignificant domestic political events in the run up to the referendum might have brought about a majority for remain?

Recent Causes: The Perspective of Contemporary History

12   Talk of such contingency sounds less convincing, once the focus of enquiry moves to past experiences. With regard to the more recent past, contemporary historians have frequently pointed out that the breeding ground for the exit vote had been prepared for quite some time. The Euroscepticism of the British before and certainly after joining the then European Economic Community (EEC) in 1973 is proverbial. They were always 'reluctant Europeans' and an 'awkward partner' for the other Member States.

13   No other country and its people were more opposed to the process of integration. Non-participation was deemed a virtue, be it via opt-outs from the Euro, Schengen and, initially, the EU Charter of Fundamental Rights, or via a reduction of the contributions to the EU budget through the so called 'UK rebate'. Symbolic acts, such as flying the EU flag on public buildings, remained undone. The European passport, a further symbol, was resented, particularly by older citizens. In the political discourse on the relationship with the EU an 'us against them' mentality permeated. Against this background, it might be argued, the outcome of the referendum was not surprising at all.

Profoundly Long-Term Causes: A *Longue Durée* Perspective

14   Yet, even the explanations offered by contemporary historians, valuable as they are, merely scratch the surface. Once an effort is made to trace the deeper causes underlying the referendum, it quickly becomes obvious that the UK's exceptionalism in the process of European integration is but a symptom of a more fundamental and far longer evolution of ideas. From this perspective, it is possible to observe continuous developments stretching across the centuries. Viewed in their entirety, they coalesce, as it were, into an intellectual and cultural history of Euroscepticism: the decision to withdraw from the EU appears less as a reaction to current or recent historical developments and more as the result of long-lasting cultural conditioning, subjective historical truths, and the emotions bound thereto.

15   With regard to Brexit only few attempts have been made to adopt such a long-term perspective, which historians often refer to as *longue durée*. It requires us to take into account the particularities of the UK with regard to its constitutional, colonial and economic history (some of which predate today's 'United Kingdom', so they are in fact features of English rather than British history). These particularities, in the view of many Britons, militate against membership in the EU and explain the desire to leave.

16   To this purpose, a simple thought experiment will help. For once, let us dispense with the stereotype of the leave voter being a grumpy old unemployed Northerner without any qualifications. Think of a group of middle-aged, educated, urbane, and affluent professionals instead. Ask them about their self-image and identity. They might even consider themselves to be Europhiles. Yet, after pausing for reflection and discussion, they might agree on the following answer: 'We are a sovereign, democratic, liberal, and cosmopolitan nation that is based on the rule of law and can look back on a thousand years of unbroken and successful history'. This, they might suggest, fundamentally differentiates their country from the continental states, whose histories have been shaped in very different ways.

17   This point of view itself has historical forerunners, particularly from the 19th century when it served to provide legitimacy for the country's 'splendid' or 'noble isolation' from the continent. In the run-up to the referendum, a group of 'Historians for Britain' revived it with reference to a supposedly uninterrupted, uniquely British path of development, which led to the distinctive character of the UK (for a German observer, there is a whiff of *Sonderwegsthese*). Their arguments have certainly not gone unchallenged, with many others highlighting the disruptive elements of British history and its embeddedness in broader European developments.

18   For the purposes of this essay, it is not relevant which of these two camps has a claim to the elusive prize of best approximation to 'the historical truth'. What matters is rather that British constructions of identity are pieced together by presenting the UK as antithetical to *Europe* as a continent rather than to the *European Union*. As Matthias Häußler has recently shown in the *Vierteljahreshefte für Zeitgeschichte* (2019, 263), this approach emerged in

the British writing of history from the 1980s onwards, and it has now become a formative narrative in the political discourse.

19   This has occurred not least because it ties in with perceptions and 'felt truths' that are difficult to capture empirically. The fictitious answer of our hypothetical Brits about their shared identity can be broken down into seven basic features that are central for the self-image of the Brexiteers: sovereignty, democracy, rule of law, liberalism, cosmopolitanism, war, and continuity. This may be surprising at first glance, particularly for present-day Germans who might see the first five of these features as equally constitutive for their own national identity. However, for Germans the concepts used have very different connotations and this has immediate effects on the respective relationships with the European Union.

Sovereignty

20   This is particularly clear when looking at sovereignty. The concern to 'take back control' was central for the leave campaign. Sovereignty, according to the British understanding of the concept, is indivisible by its very nature. This reflects historical experience. England, and later the UK, has been strongly centralized since the Middle Ages. At first, the King ruled without notable restrictions, and so did Parliament after wrestling power from the monarch. Parliamentary sovereignty continues to be the central constitutional principle of the UK. Moreover, until very recently, the regions had no powers worthy of mention, and this continues to be the case for local authorities. As a result, a culture of compromise among the constitutional powers and institutions has never emerged.

21   The German experience in particular has been a very different one. The Holy Roman Empire and later the German Confederation of 1815 lacked clear hierarchies. Interests had to be balanced, and for a long time undivided sovereignty remained just an idea. Once it was realized, war beckoned. Thus, in Germany there is a strong perception of the EU as a structure in which national sovereignty is shared and pooled in order to ultimately gain more sovereignty in areas where, in light of global developments, individual Member States no longer possess the power and the ability to perform sovereign acts themselves. That this requires compromises between states is seen as the necessary price to be paid.

22   Viewed from the other side of the Channel, this approximates surrender. Not least for this reason, reversing the orientation laid out in the European Treaties towards an 'ever closer union' and returning to a loosely defined free trade area has been a major concern of the UK from the outset of its membership.

Democracy

23   'Democracy' likewise has a particular connotation in the UK. Almost every general election within living memory has guaranteed a stable majority in the House of Commons. The hung parliaments emerging from the 2010 and the 2017 general elections are widely regarded as aberrations. So is power sharing by coalition government. In normal circumstances, there is no need for the government of the

day and its ruling party to compromise. There are no other serious constitutional checks and balances either: the House of Lords has not had the possibility to bring down legislation since 1910, the monarch only has a ceremonial role, and no court of law can strike down an Act of Parliament as invalid. Thus it was not entirely inaccurate when the then Lord Chancellor Hailsham suggested in 1976 that the British political system resembled an 'elective dictatorship'.

24 The flip side of this system is the abrupt and brutal loss of power if the next election goes the other way. Since 1832 at the latest, there has been a direct link between the voter, his or her Member of Parliament, and the ruling party. If the voter is not satisfied, he or she can literally 'kick out' the MP and the government. The people are sovereign. Never does this come to life more vividly than on the day after a general election when the removal vans stop in front of 10 Downing Street and the belongings of the outgoing Prime Minister are loaded up.

25 How different to Germany, with its party lists, seemingly eternal coalitions, constant compromises, and the judicial review power of the courts. In the European Union all of this is even more pronounced. The division of powers between the institutions is notoriously obscure, with the Parliament traditionally having the weakest role and no possibility of deselecting the Commission. The Commission is basically run by civil servants. It is easy to get the impression that there is a lack of accountability, as the same people stay in office no matter how the elections go. Therefore, while many Germans find it difficult to regard the Union as being a democracy that is worthy of the name, this is nigh on impossible for most British observers.

Rule of Law

26 Moreover, the UK is used to a very specific conception of the rule of law. As developed in the 19th century, its first and foremost aim was that no politician should be above the law. It secured freedom of expression. There were no 'political crimes' for criticism of those in power. At the same time, in the Europe of the Restoration, Metternich censored the press and the Göttingen Seven were dismissed from their positions.

27 Even today, English law is very much concerned with retaining and guaranteeing a space where everyone is free to do as he or as she pleases. It is an important feature of the rule of law that there are sizable spheres of life that are not 'juridified', i.e. where both the legislature and the courts refrain from intervention. The judiciary in particular shows much more restraint on questions of legal policy than in Germany, where the Federal Constitutional Court arguably has to engage in a certain degree of activism in order to uphold the *Rechtsstaat*. It is therefore not surprising that criticism of the alleged 'Brussels regulation frenzy' and the 'judicial activism' of the European Court of Justice is much more vehement on the other side of the Channel than in Germany.

Liberalism

28 In a similar vein, Johnson's description of Brexit as 'the great project of European

liberalism' during the referendum campaign is not particularly astonishing if a peculiarly British world view is adopted. Since the 'Corn Laws' of the first half of the 19th century, 'liberal' is more or less synonymous with free trade. The self-image is that of a sea trading nation. In the late 20th century, the free trade ideology was reinforced by Margaret Thatcher's neo-liberal economic and social model, with the ideal of a night-watchman state, low taxes and radical deregulation.

29   Neither of these ideas is easy to reconcile with EU membership. On the one hand, being a member implies the loss of the possibility to conclude the much-invoked 'global trade deals', sovereign trade agreements with third countries outside the Common Market. On the other, from the point of view of the Brexiteers, membership forces the British under the yoke of a paternalistic European social model. When they hear 'Europe', they hear the bleak clattering of the small cogwheels of bureaucracy. They think of petty prohibitions and—once again—regulation, the proverbial 'red tape' of the 'Brussels bureaucrats'. When asked which bits of EU law they actually object to, Brexiteers inevitably refer to the Regulation Laying Down Quality Standards for Bananas and the Working Time Directive, as applied to hospital doctors.

Cosmopolitanism

30   The slogan of 'global Britain' and the corresponding idea of a non-European identity of the UK are not entirely implausible either, at least if viewed from the other side of the Channel. Since the 17th century, British politics has been resolutely oriented towards overseas. World domination in the 19th and early 20th centuries cemented the self-image as a leading nation politically, economically, and culturally. Today's cosmopolitanism and global outlook is closely linked to yesterday's imperialism.

31   As late as 1945 a good third of the world population lived under the Empire. Half of world trade was transacted in Pounds Sterling. One-third of European industrial production took place in Great Britain. At the time of the founding of the EEC, the volume of British trade with the Commonwealth considerably exceeded that with the six founding members. For a long time, the UK saw itself in the centre of three overlapping circles of influence that embraced the Commonwealth, the USA, and Europe—and precisely in that order. In the parliamentary debates preceding the 1973 accession to the EEC, one speaker pointed out that the post office in his village received numerous letters from Sudan, Malaysia, and Jamaica, but hardly any from Belgium.

32   To this day, the idea of a linguistic, historical, and cultural Anglosphere is an integral part of British identity. Relatives live in New Zealand and not in Slovenia. Stopping over in Auckland has always felt more like home than visiting Ljubljana. Accession to the EEC evokes very different memories. It coincided and was inextricably linked with the process of decolonization and the decline of the Empire, as well as the loss of economic hegemony. The hope that membership would compensate for this loss was soon disappointed, not least because it occurred at the time of the first major oil price crisis. Against this background, the post-imperial identity construction of 'global Britain' generates a resonance for many Britons that is entirely

incomprehensible for Germans, with their non-seafaring past and their belated and feeble attempts at becoming a colonial power.

War

33 At least as relevant for the respective attitudes to EU membership are the different perceptions of the world wars, particularly World War II. What constitutes a traumatic collective memory in Germany is still celebrated as Britain's 'finest hour'. A country that has not witnessed any armed conflict with a foreign power on its own soil since 1066 is much more at ease with glorifying its military achievements and heroic tales.

34 It is certainly no accident that at the time of Brexit two new movies turned out to be instant blockbusters: an epic about Winston Churchill and the story of the evacuation of Dunkirk. It is often said that the war persists with the British because they were the victors. This has a direct impact on their relationship to Europe. Europe only appears in this narrative as a place that must occasionally be saved from itself. While the motto 'Never Again' was virtually constitutive for early German efforts towards European unity, it hardly played a role in the British debate on Europe. The idea that the EU is primarily a peace project is acknowledged, but not given similar prominence.

Continuity

35 This links up with the last of the seven identity-constituting factors mentioned above, the supposedly uninterrupted continuity of the island's polity since the Norman invasion. Standing apart from the continent, it seems, was a recipe for being spared from catastrophes. Europe equalled war, chaos, and revolution. England was synonymous with slow, careful, and unbloody change. In retrospect, these perceptions result in a hazy sentiment of being a chosen people, favoured by fate and somehow always standing on the right side of history. It was this sentiment that Labour Party leader Hugh Gaitskell tapped into when he argued in 1962 that joining the EEC would mean the end of a thousand years of history.

36 The optimism that all crises will be overcome, even and especially without Europe, still runs through today's debates on Brexit. The unshakeable belief that a 'better deal' exists somewhere outside the EU, the assumption that you can 'have your cake and eat it too', Johnson's mantra that the Brexit problem can be solved with verve, brinkmanship, and self-confidence alone—from the outside it all seems like acute self-deception. From the internal perspective it integrates seamlessly into a historical world view in which Britannia will invariably land on her feet in the end.

Narratives, Identities, and Politics

37 Against the self-image of the fictitious Brits, on which the historical identity constructions of the Brexiteers were presented here, it may be objected that it is just that: fictitious. In reality, the country, the people, and their self-perceptions are all significantly more pluralistic and diverse. But it is striking that many of the

most influential Brexiteers read for a university degree in a historical discipline. In addition to Johnson and his Chief Adviser, Dominic Cummings, this includes long-time MPs Jacob Rees-Mogg, Bill Cash, Douglas Carswell, John Redwood, and—in the European Parliament—Daniel Hannan. This enumeration alone shows that it is the world view of a particular class or group that permeates the political discourse. Other voices are drowned—those in power are, unsurprisingly, the ones controlling the construction of 'the' narrative.

38   From the point of view of professional historians, the use of historical arguments in the Brexit discourse is frustrating. 'Much of this history is so very un- and antihistorical', complained Jessica Reinisch of Birkbeck College, London. 'History has become a caricature of parochial dreams, nostalgias and made-up analogies' (Cambridge Core Blog, 21 February 2019). And indeed the Brexiteers do not address how to reconcile British colonial rule with the rule of law, nor the fact that World War II would not have been winnable if it had not been for the USA and the Soviet Union—as they also fail to mention that the EU's 'Bendy Banana Regulation' did not actually ban the selling of bendy bananas.

39   The belief in the blessings of Brexit has been compared to a religion or ideology. This is not entirely wrong. But an ideology can only exist on the basis of a particular world view. Therefore, constructions of identity are also relevant when they are incorrect. Historical narratives can develop a life of their own. This is also important for the frequently asked question about the relevance of history for the future. Today there is a broad consensus that no instructions for future action can be derived from history. But we access the present through our understanding of what has happened so far, saturated by historical experience. The discourse surrounding Brexit shows that, when looking to the future, it is difficult to free ourselves from the ghosts of the past.