Fragmentation, Segmentation and Centre Formation

Some Thoughts on the UK and European Integration from 1950 to Brexit

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Abstract

It might be thought that Brexit is just a case of the UK getting honest with itself and its partners. The UK never really accepted European integration. Hence, it should never have joined a body committed to an 'ever closer Union between the peoples of Europe' (even allowing for the convenient plural of the word 'peoples'). Yet, the UK's attitude to integration has not solely been one of aversion to European centre formation. If centre formation, segmentation into a differentially integrated Union and fragmentation are three possible trajectories of European integration, the UK contributed to a major act of European centre formation: namely, the formation of the single market. Elsewhere, British Governments settled for largely constructive forms of segmentation. One thing the UK has not been is a source of fragmentation. Of course, Brexit may change that. Brexit may be both necessary and impossible: something the British Government must do and something it cannot do. Brexit could fragment both the UK and the EU. Yet, a continuation of 'constructive segmentation' by other means – or even renewed centre formation – cannot be fully ruled out as possible outcomes of the Brexit referendum.

Keywords

Brexit – Differentiated Integration – Disintegration – Integration – Segmentation

Introduction

Around 04.39 on the morning of 24 June 2016 it became impossible for the 'remain' vote in the referendum on the UK's continued membership of the European Union to overtake the 'leave' vote. For the first time, a Member State had voted to leave the Union. Almost exactly sixty-six years earlier the then British Government spent much of June 1950 assessing whether it had made the right call in rejecting an offer to take part in the talks that led to the original European Coal and Steel Community (ECSC). Amongst those assessments was, interestingly in hindsight, a warning the UK should not join a process of European integration that it might one day have to leave.

Indeed, back in 1950, many in the British Government believed that European integration could spill over from one initiative to another to form a new political entity. Later, it would become more common in British Government circles to claim that any European integration could only happen on terms acceptable to the UK, and that controlling the process from within was an important argument for joining it.[1] However, that still lay in the future. In 1950, the UK Foreign Office described the proposed ECSC authority as 'a step towards a federation' and a 'prototype of federal institutions in Europe'. It cautioned that Britain's acceptance or non-acceptance would be 'interpreted as an expression of our attitude towards a federal Europe'. Ministers should only participate if they were prepared to continue the federal journey: to be 'hustled along the road to full federation through the creation of supranational authorities controlling a widening range of functions'.[2]

Yet, it was Winston Churchill who most memorably expressed the view that the UK could only participate up to a point in any process of European integration. As he put it, 'we are with but not of Europe'. He told his government: 'we help, we dedicate, we participate, but we do not merge or forfeit our insular character'.[3] After integration accelerated in the 1980s, the idea that there might be limits to how far the UK could participate returned. Hence, the attempt by the Cameron Government to opt out of the Treaty commitment to 'ever closer union' as part of its renegotiation of UK membership in February 2016.

Behind the idea that the UK might have to limit its own membership – or even, one day, leave altogether were various claims that the British state, British identity, British economy, British society, and Britain's international commitments were claimed to be, in assorted ways, incompatible with European integration carried beyond a certain point. Of course, those claims would be taken up by different people at different times. From 1950 until well into the 1980s, many on the left worried that European integration would be incompatible with the ability of British governments to plan or manage the

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[1] See especially the UK Government (1971) *The United Kingdom and the European Communities,* White Paper (Cmnd. 4715), London: Stationery Office.

[2] PRO CAB 134/295, Constitutional problems involved in a supranational authority as proposed by M. Schuman, 16 June 1950. PRO ZP 18/20, Memorandum by Permanent Under-Secretary's Committee of the Foreign Office, 9 June 1950.

[3] PRO CAB 129/48, c (51)32, 'United Europe', Memorandum by the Prime Minister to the Cabinet, 29 November 1951.

economy. As one prominent Labour opponent of UK entry put it. UK membership would 'put locks' on prospects of socialism.[4] From the late 1980s, however, it was the turn of the free market to argue that the political economy of European integration was incompatible with that of the UK.

Yet, however motivated, it would be a mistake to assume that the UK's relationship with the process of European integration has been defined solely by an aversion to European centre formation. Indeed, if we take centre formation, segmentation (into a differentially integrated Union) and fragmentation as the three main trajectories that European integration can follow, the main effect of UK membership since 1973 has arguably been to contribute to European centre formation. The UK has been the single most enthusiastic supporter of the single most important act of European centre formation through the European Union: namely the creation of the single market from the mid-1980s. For sure, British Governments have been much less interested in forms of centre formation other than the single market. But, I argue, even in those instances, British governments have settled for what I argue here have been largely constructive forms of segmentation. Those forms of segmentation – of differentiation both in the Union's decision rules and in the UK's participation in Union policies – have often contributed more to the development of the Union than distracted from it. One thing the UK has not been is a source of fragmentation.

Still, it might be objected, all that is now changing. Since 2008, multiple cascading crises in European integration first fragmented UK membership of the Union. Now, Brexit may itself further fragment both the UK and the EU. For sure, a continuation of 'constructive segmentation' by other means – or even renewed centre formation – might not be the most likely outcomes of Brexit. Yet, it is important to identify conditions under which those outcomes might be plausible. Let me say straight away that there is nothing Panglossian about that argument. To the contrary, later in the paper I will explore the possibility that Brexit turns out to be both necessary and impossible: something the British Government must do and something it cannot do. First, though, I analyse the UK's contribution to centre formation, segmentation and fragmentation, both before the crisis (1973-2008), and in reaction to it (2008-).

Before the crisis: The UK, EU centre formation, fragmentation and segmentation (1973-2008)

It is easy enough to tell the story of Britain's relationship with European integration as a comedy of errors (Massigli 1978) from start to finish. On the day in 1950 the Cabinet had to decide whether the UK was to participate in the talks on the Schuman Plan, all three of the most senior members of the Government – the Prime Minister (Clement Attlee), the Foreign Secretary (Ernest Bevin), and the Chancellor of the Exchequer (Stafford Cripps) – were in hospital. From his hospital bed, Bevin advised, in a fabulous mixing of metaphors, that the UK should not 'buy a pig in a poke', nor should it open 'Pandora's Box' lest a whole lot of 'Trojan horses jump out' (Bullock 1983: 659).

[4] Hansard, *House of Commons Debates*, 22 July 1971, Col 1906.

Fifty years later the UK's relationship with the European Union still seemed accident-prone. In 2009, Gordon Brown arrived late for the signing of the Lisbon Treaty, which he then had to sign in a room on his own. Whilst Brown insisted there had been a 'diary clash' (Seldon and Lodge 2010: 68), others suspected he did not want to supply the tabloid press with any pictures of him signing the Treaty.

Yet, for all its difficulties, UK membership of the Union after 1973 was in many ways remarkably successful. British Governments got much of what they wanted from membership of the Union whilst avoiding almost everything they did not want. They secured both the Single Market initiative and the enlargement of the Union. When, however, invited to participate in Monetary Union, the UK secured an opt-out. So extraordinary was the UK's ability to have its cake and eat it – to forge a relationship that was so 'bespoke' as almost to amount to its own private form of membership – that the UK was able to opt out of large areas of Justice and Home Affairs, whilst securing rights to opt back in again to 130 or so specific measures. For sure, solutions such as these were complex. But the idea that UK membership and the process of European integration could not be adjusted to one another needs re-examination across all three themes of fragmentation, segmentation and centre-formation.

Fragmentation

Many had expected UK membership at least to constrain further European integration and perhaps even unravel it. Sir Gledwyn Jebb, the Permanent Secretary at the Foreign Office, would scribble 'embrace destructively' when confronted with an early proposal for a Common Market (Horne 1988: 363). In January 1963, the French President, Charles De Gaulle, memorably vetoed British accession on the grounds the UK would be a 'Trojan Horse'. When, in 1969, the six original members re-opened negotiations with the UK, it was not without taking the precaution of first committing the UK to existing and further integration (Simonian 1984; De La Serre 1987), lest it should seek to unravel it. When, indeed, the UK did join in 1973, it seemed to confirm fears that it would disrupt the Communities. The UK spent much of the first decade of its membership seeking to renegotiate the terms of its accession. The first change of Government in 1974 brought in a Labour administration committed to a wholesale renegotiation. The next change of Government in May 1979 brought in a Conservative administration, which demanded reduced budget contributions before finally agreeing in 1984 to the famous UK rebate.

Of course, the best-known example of a major Member State withdrawing its co-operation is the empty chair crisis of 1965-6 when De Gaulle refused to allow French representatives to attend meetings of the Council of Ministers. Less remembered is that the UK has twice withdrawn its co-operation albeit in more limited ways. For a month in 1996, the British Government declared that it would automatically vote against any decision put to a vote of the Council. From 1979 to 1984, the UK Government announced it would not agree to any new major initiative in European integration unless its budget contributions were reduced. Yet, the British Government first reaction to solving early crises in Britain's membership was to seek some way of permanently improving its relationship with the EC through its support for the Single

Market initiative. That, in turn, made a decisive contribution to European centre formation. The next sub-section explains.

Centre formation

Although the European Communities (EC) were founded in the 1950s, there is much to the argument that there was rather little to European integration before the mid-1980s.[5] The Single Market initiative changed all that. It switched efforts from removing border barriers to trade, to removing those behind boundaries. That, in turn, required a massive volume of shared law-making. Whilst, then, the European Court of Justice (ECJ) had first claimed the supremacy of EC law in 1964, it was only in the late 1980s that Member States began to use their shared membership of the EC to legislate together on an ambitious scale. From the launch of the Single Market programme in 1986, the European Union became a significant form of shared rule. From then on, Member States made large volumes of law together. The allocation of values in each Member State and the lives of citizens of each Member State were now significantly affected by laws their governments made through their shared membership of the Union. No Member State pushed harder for the Single Market than the UK. The extent of British support for the Single Market – and of awareness in the British Government that it would entail further European centre formation – is clear from Margaret Thatcher's memoirs:

> I had one overriding positive goal. This was to create a Single Market […]. What remained were so-called non-tariff barriers. The price, which we would have to pay to achieve a Single Market with all its economic benefits, was more majority voting in the Community. There was no escape from that, because otherwise particular countries could succumb to domestic pressures and prevent the opening up of their markets. It also required more power for the European Commission.
>
> (Thatcher 1993: 553)

Segmentation

Still, support for the single market was, arguably, the only major example of British support for European centre formation. Otherwise the UK's default response to proposals for further integration was always to avoid participation. Yet, the UK's 'integration avoidance' was neither fully intentional nor significantly constraining. Consider the segmented relationships – or, in other words, the special rights and commitments – which the UK has sought over the history of European integration.

There is a precise historical lesson from UK attempts to develop segmented relationships. Those attempts were a failure before the UK became a member in 1973. Yet they were an unexpected success once the UK did join. Saying 'no' to Monsieur Schuman is not exactly what the British Government believed itself to be doing in 1950. The UK Government's position was that it 'would have wished to have been associated

[5] See especially Bickerton 2012.

with the proposal'.[6] Indeed, The British Government expected to be able to participate very powerfully without full membership. As a working party within the British Government on the Schuman Plan put it, 'even as non-members our bargaining power and goodwill would be considerable. […] Some of the advantages of membership would come to us without being a member'.[7] By the end of the 1950s, however, the UK was reduced to desperation. An association with the ECSC had been agreed. But it contained little substance. The UK's attempt to negotiate a wider European free trade area, that would allow the UK free trade without membership of the EC, had been firmly rebuffed.

In complete contrast to the UK's failure to carve out a private relationship of its own with the process of European integration before 1973, that was precisely what the UK achieved after it joined. If it was expected at the time that Member States should attempt to participate in the same way in all policies, the UK was in breach of a norm of membership before it even completed its accession. In the space of just 40 days in 1972, the UK first joined and left the EC's common currency float. This was no minor detail. It was precisely on the UK's ability to participate in monetary integration that the French President, Georges Pompidou, had sought – and received – reassurances before agreeing to lift his veto on UK membership just a year earlier (Lord 1993). Monetary integration would be precisely the area where the UK would drift ever further apart from many of its new partners over the next forty years. Only for two disastrous years (1990-2) would the UK be full members of what was then the main mechanism of monetary integration: namely the European Exchange Rate Mechanism (ERM) of the European Monetary System (EMS). Later, of course, it would also opt out of Monetary Union itself.

Yet, the segmented character of the UK's membership was largely unintentional. British Governments often assumed segmentation would not be permanent. They also believed that the main lesson of non-membership between 1950 and 1973 was that the UK should not allow itself to be marginalised from decisions by which it would be affected or from policies it might one day have to join (Heath 1970). Hence, UK governments were guarded about centre formation beyond the creation of the single market. But, they were determined, none the less, to remain at the centre of the Union. Attali (1995: 876-7) recalls a conversation during the Maastricht negotiations. In response to Mitterrand's observation that 'Europe has got used to British opposition and to making plans without the UK in the expectation it would join later', John Major cautioned against always regarding the UK as a European integration laggard. As he put it, 'Britain didn't just want to join the train. It wanted to be in the driver's cabin'. Tony Blair would later claim that Euro-membership was the long-term goal of his 1997-2007 government. Indeed, he would even tell the 2002 Labour Conference that the Euro was the UK's 'destiny'.

[6] PRO CAB 128/17, Conclusions of a Meeting of the Cabinet held at 10 Downing Street on Friday 2 June 1950.

[7] PRO FG (WP) (51)-43, Report of a Working Party Constituting the European Coal and Steel Community, 31 December 1951.

Not only, though, did British governments themselves question how long the UK's somewhat segmented participation in European integration would last. UK support for segmentation has, arguably, also been more constructive than constraining of integration. British Governments sought to compensate for absence from some policies with commitments to others. Hill (1983) noted the 'convenient schizophrenia' with which UK governments supported foreign policy co-operation whilst questioning the supranational policies and institutions of the then European Community. Later, the Blair Government hoped that putting the UK at the foreign and security policy core of the Union through the European Security and Defence Policy would offset its absence from Monetary Union (Liddle 2014: 113).

More broadly, segmentation in Member State participation in Union policies has helped reconcile the wish of some to integrate further with the reluctance of others. Likewise, segmentation of Union decisions into the so-called Union and Community methods so strongly supported by the UK in the negotiations on the Treaty on European Union (1992) – has been largely constructive (Bickerton et al. 2015). For sure, British support for the Union method was opposed (Dyson & Featherstone 1999) by those who believed integration should converge over time on a single Community method that confined rights of initiative to the Commission and conferred veto powers on both the European Parliament and Qualified Majorities of the Council. Yet, rather than compete with one another, the two methods simply do different things. The Community method makes law in matters where the Union has competence. The Union method mostly co-ordinates national competence, sometimes core national competence (Genschel and Jachtenfuchs 2014). It is hard, indeed, to see how the Union would be able to do the latter without something like a Union method that can draw on the participation of supranational institutions whilst leaving formal powers to unanimous agreement of Member States in the European Council and the Council of the European Union.

Crisis and Brexit: 2008 – present

At the time of the 2004-7 enlargements and the Convention on the Constitutional Treaty, few would have regarded the UK's somewhat segmented relationship with the Union as a significant constraint on how far the British government could shape the membership, powers or institutions of the Union (Lord 2008). It was a measure of the UK's influence as much as its awkwardness when Valéry Giscard d'Estaing, who presided over the Convention, often asked the representative of the British Government to respond first to the proposals (Norman 2003). Fewer still would have predicted that the UK would vote to leave the Union one day. So, what fragmented the UK's membership of the Union so dramatically before 2016?

Fragmentation 2008-16

Structural and contingent factors – underlying weaknesses and events – interacted to unravel the UK's membership of the Union. Much changed as a result of 11 September 2001. Determined to demonstrate solidarity with the US, Blair committed the UK to the invasion of Iraq in 2003. That broke the 'New Labour' coalition which otherwise had every chance of blocking the revival of the increasingly Eurosceptic Conservative Party. In retrospect, the UK Government also mishandled the 2004-7 enlargement by allowing unrestricted free movement without the normal five-year transition. The Government predicted that as few as 12 000 would move to the UK (Dustmann et al. 2003). More than one million did. For the first time, free movement became contentious in the UK. Later studies would find the Brexit vote was strong in areas there had been 'a sudden influx' of EU-immigrants. In contrast, areas where EU-immigration into the UK had built up more slowly were pro-remain, even if the level of immigration was high (Goodwin and Heath 2016).

Then, from around 2008 onwards, a plague of crises in European integration weakened UK membership further. The Euro crisis did huge damage to the EU's reputation in the UK. Domestic support for UK membership had always been transactional. Few identified with the Union or valued European integration as an aim. But many accepted that a body such as the Union might be needed to deal with interdependence and cross-border problems. Many also accepted that the UK needed a level of access to its largest and nearest market that could only be had from full membership of the Union. Hence, support for membership depended a great deal on the assumption that the EU contributed to the UK's economic performance. That confidence was weakened by the Euro crisis. In moving a Private Members' Bill that would have repealed the European Communities Act, Douglas Carswell – then still a Conservative MP – famously claimed that membership of the EU was like being 'shackled to a corpse' (Daily Telegraph 26 October 2012). By the end of 2012, only 20 per cent of UK public opinion had confidence in the EU against 69 per cent who did not; only 29 per cent agreed that the UK's 'interests are well taken into account in the EU' against 61 per cent who did not; 54 per cent agreed that the UK 'could better face the future outside the EU' against 35 per cent who disagreed; 80 per cent were opposed to membership of the Euro as opposed to 14 per cent in favour (Standard Eurobarometer 81). So toxic had the Euro become that, even in Scotland, supporters of independence in the 2014 referendum tried desperately, and unconvincingly, to argue that Scotland could easily join the EU without committing to the Euro.

As well as weakening public confidence in the EU, the financial crisis also threatened the delicate balance the UK had achieved through its somewhat segmented membership of the Union: namely, the balance between participation in the single market and abstention from further integration. Monetary Union, it was now believed, would need to develop further if it was to survive at all. In contrast to the Maastricht model in which complete centralisation of monetary policy was balanced by near complete fiscal decentralisation, the Euro crisis made it likely that members of the Monetary Union would need to accept more fiscal co-ordination and a banking union.

That, many in the UK feared, would either force the UK to join the Euro or risk domination by a Eurozone majority in decisions of the wider European Union. Here the UK faced an acute dilemma. For it was, in a sense, anything but a monetary union 'out'. Since 1998, London has developed as the financial centre for the euro without being in the Euro (Jones 2015). It dominated both Euro currency and bond trading. It headquartered most non-EU banks within the Union's single financial market. Therefore, British Governments have been worried about institutional incongruence between the European Union and its Monetary Union. Many rules that govern access to the Euro's financial infrastructure (Armstrong 2016: 34) – clearing and liquidity – can (unsurprisingly) be made by Eurozone actors alone. Other financial regulations can be made as Single Market rules by the EU-28. Amongst the EU-28, the Eurozone-19 approximate on their own to a qualified majority of 55 per cent of member states representing 65 of the Union population. Hence, when asked to agree changes to the European Banking Authority (EBA), the UK insisted that the EBA should only be able to take decisions with a double majority of both Eurozone 'ins' and 'outs'. Hence, a series of cases in which the UK has challenged EU financial regulation in the Court of Justice of the European Union (CJEU). Hence finally, the inclusion in David Cameron's attempted renegotiation of UK membership in February 2016 of a 'safeguard mechanism for non-Eurozone member states' (House of Commons 2016: 13).

However, the financial crisis would not have been fatal on its own to UK membership. The prospect of a referendum being held on the UK's membership of the Union – made certain by the unexpected success of the Conservatives in securing an absolute majority in the May 2015 election – briefly turned opinion round in favour of remaining within the Union. In June 2015, remainers led leavers by 61 per cent to 27 per cent in an Ipsos MORI poll. Yet, by December 2015 that lead had disappeared again. An ICM poll had remainers and leavers almost tied at 42 to 40 more per cent. The migration crisis of summer 2015 undermined the majority for remaining. It reinforced the belief that the EU was a dysfunctional body that had taken away the powers of Member States to make their own laws and manage their own boundaries without adding new protections. Although, of course, the UK was not a part of Schengen, it was easy for some opponents of remaining in the EU to frame the migration crisis as a threat to the UK by arguing that asylum seekers accepted into the EU could eventually end up in the UK under free movement (Time Magazine 16 December 2015).

Whilst, however, multiple crises of European integration fragmented UK membership after 2008, there were structural weaknesses in UK membership which made it vulnerable to those crises. For sure, the UK, as seen, got much of what it wanted from EU membership and avoided much of what it did not want. Yet, UK membership was as much a domestic failure as it was an external success. Consider Christopher Bickerton's helpful distinction between a nation state and a Member State (2012). Externally the UK state adjusted well to membership. Its civil service had a formidable reputation for its handling of EU meetings. Data on voting in the Council of Ministers showed that the UK was just like most other Member States. In other words, British Governments hardly ever felt any need to vote against Council decisions (Mattila and Lane 2001). Yet, domestically, the UK has probably never been a Member State in the sense of being well adjusted to its membership of the Union. Eurobarometer has often found low levels of identification with the Union; and, above all, a public opinion that, in almost all its surveys, turned out to have the least knowledge of the EU. Then, of course, there was the relentlessly negative framing of the EU in the UK media. Peter de Wilde, Asimina Michailidou and Hans-Jörg Trenz, explain the significance of that. As they put it, media research demonstrates that 'reporting has a direct impact on levels of Euroscepticism'. In particular, where 'EU reporting is not framed in a suggestive manner [...] cynicism about EU affairs decreases' (2013: 180). But UK Governments would probably have been more courageous in challenging misrepresentations of the EU had it not been for something else. In a system of just two main political parties that alternate in government, it mattered that those parties were never completely united, and sometimes deeply divided, within and between themselves on UK's membership. British Governments often responded by obfuscating Union issues, rather than explaining and justifying them (Lord 1993). Sometimes they even mobilised opposition to the EU.

Segmentation revisited

Whilst, however, Brexit is apiece with a domestic politics that perhaps never adjusted to UK membership after 1973, there is little chance that the 2016 referendum would bring any certainty to the UK's relationship with European integration. To the contrary, the referendum outcomes poses more questions than it answers. What exactly does Brexit mean? In its attempt to answer that question, British politics has become a non-stop Gramscian struggle over the construction of meaning. Multiple interpretations are offered of exactly what leavers voted for. For sure, they voted to leave the European Union. Perhaps they voted, as many Brexiters like to put it, to regain control of the UK's laws, money and boundaries? But can we be sure a majority voted to leave the Single Market and/or the Customs Union? Five months after the referendum, 90 per cent of British voters still support access to the EU market (Curtice 2016).

A fundamental procedure flaw of the referendum is that all we can say for certain is that voters were asked the following question: 'Should the United Kingdom remain a member of the European Union or leave the European Union?' 51.9 per cent of voters then replied 'leave' and 48.1 per cent 'remain'. In contrast to other systems – such as several US states where those seeking change through a referendum often back up a short referendum with a more precisely specified proposal of up to 10 pages – no one specified a plan for delivering the referendum outcome.

In any case, Brexit cannot be fully defined without answering the question, exit to what? And it is hard to see how that question can, in turn, be answered without further negotiations with other states within and beyond the EU. All that might suggest that – if a question as fundamental as the UK's exit from the EU is to be adequately defined by democratic process at all – more than one referendum or election may be needed.

Yet, even that presupposes that the UK can find the exit at all: that it can exit at acceptable cost. All that this paper can do is tentatively sketch some options available to the UK. It is often remarked that the UK can leave the European Union but not Europe. Given deep and complex human, economic and security interdependencies between the UK and the EU, the UK may want to participate in some Union policies from outside the Union. Indeed, several leavers seem themselves variously to support continued market access, continued security co-operation, continued research collaboration, and even some continued labour and capital mobility. Any of that would substitute one form of segmentation for another. Instead of participating in most but not all Union policies as a member state, the UK would participate in selected policies as a non-member state. Indeed, it is possible to imagine continuity, transformational and transitional forms of segmentation.

Continuity segmentation would simply extend to the UK one of the existing arrangements by which the EU allows non-member states to participate in its policies. Here there are two main possibilities: namely, the 'Norwegian' or 'Swiss' models.[8] The former would use a mechanism like the European Economic Area (EEA) to approximate 'real-time convergence' between British and Union laws covered by the agreement. UK commitments would be more or less automatically updated to take account of new Union legislation and ECJ rulings. In contrast, the 'Swiss model' would involve the negotiation of 'static' bilateral treaties. The formal commitments of the EU and the UK would be just those specified in whatever treaties they chose to conclude. They would not change over time.

However, some anticipate that Brexit will trigger more transformative forms of segmentation. In other words, it will reconfigure the entire relationship between the EU and those states in Europe and its neighbourhood which are unable to join the Union. An all- party report of the House of Commons Foreign Affairs Committee had something like that in mind in anticipating a two-tier Union: with the outer tier based on the Single Market and the Common Foreign and Security Policy; and the inner tier on the closer integration of fiscal and monetary policies within the Eurozone (House of Commons 2013: para. 162, 78-79).

More recently, the Bruegel Institute responded to the Brexit vote by proposing what it called a Continental Partnership (Pisani-Ferry et al. 2016). The Bruegel proposal would plainly go further than any existing arrangement – such as the EEA – in allowing non-members rights of participation in Union decisions. For example, Bruegel proposes a Council of Ministers for non-Member States. That Council, Bruegel argues, should be able to propose, but not insist upon, amendments to draft Union laws that are likely to be applied in non-member states. Suggestions that Union policies or institutions should be redesigned in response to Brexit plainly assume that adding the UK to the EU's non-member states would create a new equality between the EU's 'ins' and 'outs'. On their own Norway, Switzerland and a handful of others are condemned to be structure takers. With the UK, it is supposed, the 'outs' can be structure-makers, given the importance of the British economy and of the UK's contribution to European security.

There are, however, difficulties with both 'continuity' and 'transformative' segmentation. The 'Swiss model' would not guarantee that British law would be fully convergent at any one time with single market regulation. It thus implies some risk of

[8] For reviews of these and other possibilities see CEPR 2013; Eriksen and Fossum 2015; and Gstöhl 2015.

disintegration from the single market. Moreover, without the automaticity of the EEA, it is likely to be a complex solution. The Swiss, for example, have had to negotiate more than 100 bilateral treaties, none of which covers the financial sector, which, of course, would be important to how the UK would want to structure its relationship with the EU as a non-Member State. Moreover, both the Norwegian and Swiss cases are forms of 'coming together' – as opposed to - 'falling apart segmentation' (Leruth and Lord 2015). In other words, they are designed to allow states which have never been full members to participate in selected Union policies. They cannot easily be extended to exist unless they are compatible with the reasons a state has for leaving the Union in the first place.

Here, there is a fundamental difficulty that is not widely understood. When the EU insists that there are limits to how far outsiders can participate in those of its policies that involve shared law-making without accepting that full members of the Union should have a monopoly on the making of Union laws, it is not trying to dominate, exclude, or even drive a hard bargain. Rather, it is simply stating a truism that making shared laws within an agreed legal and political order and bargaining together in the absence of shared membership of a legal and political order are two different kinds of relationship. The first requires agreement on rights and responsibilities that go with co-authorship of laws. So, for example, Member States have used their own sovereign rights as democratic states to decide that the ordinary rightful way of making law in the Union is to give the Commission a right of initiative; to allow majorities of 55 per cent of Member States representing 65 per cent of the Union's population to co-decide legislation with majorities of the European Parliament; and to allow the CJEU a monopoly of interpretation. When non-members bargain with members of the Union they have to acknowledge that the latter have chosen to associate together as co-legislators.

To be fair, some Brexiters are amongst the few who grasp the foregoing. They recognise that – if the UK really is to regain control of its own money, law and boundaries (Legatum Institute 2016) – it may be difficult for the UK to aim for any more than a Free Trade Agreement (FTA) with the EU of a kind that can be achieved by any state in the international system, say Japan or Canada. Even the Swiss model of multiple bilateral FTAs and other Treaties go too far. Whilst Switzerland preserves formal sovereignty over the making of its own laws, it usually ends up having to adopt Union laws unilaterally if it is to preserve legal and market certainty. Importantly, the Institute of Directors' much publicised prize for how Britain should exit the European Union was won by a submission that argued that the UK could only realistically control its own laws and boundaries if it accepted a lot less than the Swiss bilateral Treaties with the EU whilst offsetting that loss of market access by using its withdrawal from the Customs Union to proliferate FTAs with the rest of the world (Mansfield 2014. See also Bootle 2014). Indeed, Philip Hammond (2016) – now Chancellor of the Exchequer (Finance Minister) – has gone further. As he put it, 'for anyone wanting a clean break with the EU' trading under World Trade Organisation rules – or, in other words, without an FTA with the EU at all – 'is the only honest model'.

Yet neither trade deals with the rest of the world – nor perhaps even full agreement on the UK's status as an individual member of the WTO – are likely to be concluded quickly. Trade agreements often take up to seven years to agree and ratify. Few of any complexity have been concluded within the two years that would be available after triggering Article 50. Hence, proposals for some temporary form of segmentation in which, for example, the UK remains a part of the Single Market and Customs Union for some years after leaving. The obvious danger, however, is that a temporary solution would only perpetuate the crisis in the UK's relationship with the EU. Unless the UK really can conclude extensive trade agreements with the EU and beyond, it would face just the same predicaments at the end of a transitional agreement as it does now. Only an EEA-type agreement aimed at automatic convergence of laws can minimise legal and market uncertainty for any non-Member State seeking to participate in the Single Market. But it would be absurd for the UK to exit the Union to regain control of its own laws and then conclude an EEA-type agreement. That would entail similar obligations to enforce Union laws with fewer decision rights over the making of those laws (Eriksen and Fossum 2015).

Fragmentation again

Brexit could fragment much less or much more than the UK's membership of the Union. Less, if the UK exits whilst preserving any of the substance of its membership. More, if Brexit also fragments the Union, the United Kingdom, or both.

Ways in which Brexit might further fragment the Union need little repeating here. They include risks that other governments may attempt to get what they want by threatening to leave; or that the Brexit vote may be just an episode in a wider populist insurrection against the established elites and institutions of representative democracy. Then, there are risks that Brexit will be lose-lose for both the UK and the Union. Take, for example, the UK's position as a European financial centre. Finance works by clustering. Positive externalities accrue from conducting many different kinds of financial transaction in one place. Putting London outside the single financial market may also be a negative shock to the Eurozone economy. It may increase financing costs of both EU Governments and EU banks. Hence, the Euro could itself even be a casualty of Brexit. In Europe's cascade of crises, the crisis in Monetary Union may have fed the Brexit crisis, which in turn may feed back into a further crisis in the single currency.

What, though, of the risks of Brexit to the UK itself? Brexit may even turn out to be both necessary and impossible: something that the British Government must do and cannot easily do. The UK Government has received a clear instruction from the electorate to leave the European Union. However, any one of leaving the Single Market, leaving the Customs Union or ending free movement could inflict great damage on the British economy (CEPR 2013). The UK runs a large balance of payments deficit. Its public finances remain vulnerable to a long economic downturn. It has an accumulated stock of one trillion dollars of foreign direct investment,[9] much of which only came to

[9] Hutton, W. (2016) 'The Brexit war can still be won, but we must start fighting back', *The Guardian*, 2 November 2016 Retrieved from https://www.theguardian.com/commentisfree/2016/nov/02/brexit-war-can-still-be-won-eu [last accessed 15 February 2017].

the UK to access the EU's single market. Although the UK's banking system is much stronger than five years ago, the International Money Fund reminds us that: '[t]he UK is at the core of the international financial system, being both home and host to so many systemically important financial institutions. The effectiveness' […] of its framework for managing the stability of its banks […] will, therefore, depend on strong cooperation with other countries' (Armstrong, 2016: 5). The Bank of England observes that UK banks remain vulnerable to high levels of mortgage debt, which could go bad in a downturn or with higher interest rates and risk premia on British assets (Armstrong, 2016: 10). The National Institute for Economic and Social Research points out that the British financial sector does not just depend on access to the single market, but on access to Euro clearing and currency swaps (Armstrong, 2016: 34).

The political and legal difficulties of disentangling the UK from its membership are no less acute. On average around 20 per cent of law in Member States is European Union law (Töller 2010). 6000 EU laws are applied in the UK under the European Communities Act (ECA) of 1972. Thus, the first thing the UK may need to do on repealing the ECA and leaving the EU is to dive straight back in again by adopting all EU law into UK domestic law. Otherwise, it has been noted, every financial trade in the City of London would lack legal certainty or be outright unlawful (Legatum Institute 2016). Still, the UK will eventually need to review EU laws to decide which to retain. If it takes a light touch, the UK will continue, in some significant part, to be governed by EU laws. Reviewing and changing much EU legislation could, conversely, take years. It could also create constitutional difficulties. To expedite matters the Government may want to change EU law by executive discretion: by what are ominously known in the UK as Henry VIII clauses. Parliament, in contrast, is likely to object to up 20 per cent of law being redefined by the executive acting with minimal parliamentary involvement. However, even before it repeals the ECA, the UK may encounter another constitutional crisis. Repeal will require amending the legislation establishing the devolved assemblies of Scotland, Wales and Northern Ireland. But, UK constitutional convention[10], such as it is, holds that devolution legislation can only be changed with the agreement of Edinburgh, Cardiff or Belfast.

Worse, Brexit may terminally destabilise the UK political system. Some 30-50 years ago many political scientists identified a central mystery of the British political system: why, they asked, was the UK system so widely accepted when it usually allowed just one party - sometimes with much less than 50 per cent of the vote - to exercise power on its own for up to 5 years? Amongst answers were the following. First, the UK was an unusually homogenous society (Finer 1970: 131). Second, British parties competed for the centre. The exclusion of all but one party from power could still, as Arend

[10] 'The United Kingdom Parliament retains authority to legislate on any issue, whether devolved or not. […] However, the UK Government will proceed in accordance with the convention that the UK Parliament would not normally legislate with regard to devolved matters except with the agreement of the devolved legislature'. Cabinet Office (2012) *Memorandum of Understanding and Supplementary Agreements between the United Kingdom Government, The Scottish Ministers, The Welsh Ministers and the Northern Ireland Executive Committee*, Para. 14, p. 8. Available at: https://www.gov.uk/government/publications/devolution-memorandum-of-understanding-and-supplementary-agreement. [Last accessed 24 January 2017].

Lijphart put it, approximate to 'government by the people' (1984: 22) if even those who voted for other parties felt served by the one party that ended up in government. Third, although a state of four nations, territorial cleavages in British politics were weak, with the exception of Northern Ireland which was small and largely peripheral to the allocation of power within the British political system. Otherwise, territorial differences – and, indeed, many other possible divisions in British politics – were subsumed into a single left-right dimension of political competition (Harrison 1996). Yet, fourth, that single left-right dimension was as weak as it was unifying. Left-right, and sociological class-based voting, dominated not because left-right ideologies were important to anyone but a few, but in the near absence of much else to argue about (Butler and Stokes, 1969). The UK enjoyed the benefits of a simple one-dimensional structure of political competition without polarisation and without smothering other forms of political choice. Fifth, it followed that the UK avoided the dangers a more multi-dimensional form of political competition would have posed for a political system that allowed mere pluralities to exercise so much power on their own. Where choice is multi-dimensional, yet the system majoritarian, mere pluralities cannot just govern to the exclusion of others. They can also make arbitrary choices by merely deciding which options are to be considered in which sequence (Riker 1982).

All the foregoing conditions for the stability of the British political system were already eroding well before Brexit. Indeed, Brexit itself is both a product of breakdown in the British political system, and a likely source of further crisis within it. Far from being homogenous, the UK is now one of the most unequal societies in Europe. Part of the Brexit vote, especially in the North of England, can be explained by that inequality.[11] Using data from the British Election Survey, the Joseph Rowntree Foundation has shown that 'groups vulnerable to poverty were more likely to support Brexit […]. There is a strong relationship between household income and support for leave' (Goodwin and Heath 2016).

Second, newly acute territorial cleavages within the UK are likely to multiply the difficulties of handling Brexit. Two of the four nations of the UK voted for Brexit and two against. Of the two that voted for Brexit, one (Scotland) is itself divided on whether it should remain in the United Kingdom. The other (Northern Ireland) is only recovering from decades of civil conflict with the help of a peace process which could itself by disrupted by Brexit. Yet, any form of Brexit that takes account of the special circumstances of Scotland and Northern Ireland is only likely to sharpen the contradictions between different forms of Brexit. Take the example of Northern Ireland, which could yet turn out to be one of many problems on which Brexit unravels. The recreation of a physical boundary between the United Kingdom and the Republic of Ireland could risk much of what has been achieved by the Anglo-Irish agreement (1986) by creating an impression amongst the 'nationalist' community in Northern Ireland that it is bottled up forever in the United Kingdom. Yet, to avoid the need for a physical boundary, the UK would need to remain in a customs union with the EU. That,

[11] See Bell, B. and Machin S. (2016) p. 111: '[T]he spatial distribution of leave votes was correlated with low and stagnating real wage levels […]'. There is also a relationship between the leave vote and the 62 out of 370 local authorities where 'real wages have fallen' since 1997.

however, would be incompatible with the Brexiters' hope that leaving the EU would free up the UK to negotiate free trade agreements of its own all round the world. Moreover, without a physical boundary, the UK will only be able to reassert an imperfect control over free movement of persons from the European Union. Administrative checks within the UK itself on illegal entry by EU citizens would have to substitute for 'at border' checks.

Third, in place of a one-dimensional structure of political competition, the UK now does not just have a territorial cleavage. It also has two distinct left-right cleavages: one preoccupied with markets, the other with immigration and identity. All that interacts with what is surely the most intractable feature of Brexit: namely, the difficulty of discerning any stable equilibrium within British politics for any one approach to leaving the Union. For some, hard Brexit means open markets. The UK should leave the Single Market and the Customs Union to operate like a giant Singapore, with a zero-tariff regime and maximal deregulation. For others, though, hard Brexit means hard boundaries. Those ideas may not be easy to reconcile. Outside the Union, the UK will only prosper through maximum openness to global markets if the UK is open whatever capital and labour flows are required by its complex supply chains and by the goal of keeping its economy at the cutting edge of international competition. Not only, though, do hard Brexiters form an inconsistent coalition. They also occupy strategically different positions within British politics. It is the market liberalisers who are able to threaten rebellion within the Conservative Party. It is the supporters of hard boundaries who form a large part of Brexit voters. Many Brexit voters from the North of England would be unlikely to agree with the former chair of the leave campaign that Brexit was a vote to complete the Thatcher revolution[12]). Yet, however, contradictory the Brexit coalition, it may come together again to oppose many of the trade-offs that may be needed for a soft Brexit.

As suggested earlier, further referendums and general elections may be needed to decide the form of Brexit. For sure, only the people can legitimately decide any ambiguities in what the people want. Any attempt by representatives to decide will necessarily only be interpretations. Yet, there is almost no prospect that going back to the people will produce an answer either. John Curtice (2016) identifies the problem in the most extensive survey of UK public opinion following Brexit:

> Voters cannot simply be divided into those who want a "soft" Brexit and those who would prefer a "hard" one. In fact, key elements to both approaches are supported by a majority of voters. On the one hand, there is nearly universal support for maintaining free trade between the UK and the EU […]. On the other, about seven in ten voters believe that the UK should be able to limit immigration from the EU.

Once, however, voters are asked which they would support if a choice really had to be made between those options; opinion remains every bit as divided as it was in the

[12] Financial Times (2 September 2016) 'Brexit gives us a chance to finish the Thatcher Revolution'. Available at: https://www.ft.com/content/6cb84f70-6b7c-11e6-a0b1-d87a9fea034f. [Last accessed 24 January 2017].

referendum itself. As Curtice (2016) continues, 'if people are asked whether the UK should allow EU migrants to come here if this were the only way UK firms could trade freely with the EU, 49 per cent said the UK should definitely or probably allow free movement, […]. 51 per cent said it should probably or definitely not'. In other words, the two camps are equal and opposite forces in British politics.

In sum, the predicament is something like this: only by offering choices that explicitly trade off the two left-right cleavages – the identity cleavage and the open market cleavage – can English opinion decide what it wants from Brexit. Any attempt to decide the form of Brexit on market or identity considerations alone would be bound to be seen as arbitrary by the losing minority. Yet, any feasible trade-off between the cleavages would be likely to split English opinion a second time. And, beyond England, there may, in any case, be few forms of Brexit that will work for all parts of the UK.

Conclusion: Centre formation again

In 2008, when it was still remembered that the banking crisis started in banks and blame had not yet been conveniently transferred to the Euro, Wim Buiter, economist and member of the Monetary Policy Committee of the Bank of England, argued that the UK should join Monetary Union. His argument is worth quoting at some length. In Buiter's view, 'the cost of a common currency – the loss of national monetary policy, that is, of the nominal exchange rate and/or the short-term risk-free nominal interest rate as possible policy instruments – is likely to be negative for the United Kingdom' (2008: 270). He then continued, 'as regards cyclical convergence, the UK business cycle is now so synchronised with that of the Eurozone that the country looks like a suburb of Frankfurt' (2008: 270).

Moreover, Buiter continues, the UK does not just have a huge financial sector. Precisely because its position inside the Single Market has paradoxically allowed the UK to emerge as the financial centre of the Euro area, many of the financial assets and liabilities of the institutions for which the Bank of England is responsible are denominated in dollars or euros. That means the UK operates in the international financial system as a 'giant floating hedge fund', taking in, and lending out, huge amounts in currencies other than its own. It also means that, in a financial crisis, the Bank of England would have to seek the help of the two central banks that have global currencies: namely, the United States Federal Reserve and the European Central Bank. No doubt, Buiter continues, it would be possible to arrange swaps but there would be a cost' (Buiter 2008: 279). Those other central banks would have to charge a sufficient interest rate to cover the risks of lending to the Bank of England in a crisis. Now, clearly the UK state stands behind the Bank of England. But that is only a help in so far as the British state is:

> [C]apable of making both the internal fiscal transfer (from taxpayers […] to the state) and the external transfer (from domestic to foreign residents) required to service the additional debt incurred by the state. Given the size of the gross external liabilities of the United Kingdom […] and given the size of the foreign currency liabilities of the UK banking sector […], the ability of the state to provide

> a credible guarantee for the survival of the UK banking sector cannot be taken for granted.
>
> (Buiter 2008: 279)

So, as little as eight years ago, there were some albeit lonely voices, urging the UK not to exit the Union, but to dive deeper into it by joining Monetary Union. Buiter's deeply unfashionable analysis, I think reminds us that, for a state such as the UK, many considerations will interact with another in any choices it makes of which international cooperation it should join or leave if it is to find a balance between its domestic politics and society and the international systems of which it is a part. So, in the case of Brexit it is not just the UK's place in the international financial system that interacts with the solvency of the British state. Those things further interact with the UK's place in trading systems, supply chains and security co-operations. All that, in turn, interacts with the stability of the UK's political system and its territorial integrity.

That leads me to one final heretical thought. Assuming the Union survives its own four horses of the apocalypse (the euro crisis, migration crisis, geopolitical crisis and membership crisis) it is often remarked that the Union may eventually integrate further and faster without the UK. The Union will get closer to solving the incongruence between the Single Market and the Single Currency. The UK will find it harder to block EU defence co-operation. But maybe there is another way in which Brexit may paradoxically stimulate European centre formation. Imagine the UK tries but fails to exit the European Union, or at least it fails to leave it other than cosmetically. Much of what I have said suggests that neither the UK economy, nor the UK state, nor even UK society can feasibly extricate itself from membership of the European Union. Failed exits are important moments in the formation of federations. Once exit is no longer a plausible option, voice and loyalty become more important (Hirschmann 1970).

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