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**Divided culture and constitutional tensions:
Brexit and the collision of direct and representative democracy**

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Abstract

This article considers connections between two aspects of Brexit: the cultural divide exposed and amplified by the European Union (EU) referendum of 23 June 2016 and the prolonged and intense period of multiple and overlapping constitutional tensions that followed the referendum. The referendum revealed the existence of two contrasting cultural groupings. Each was defined by a cluster of values that extended beyond attitudes towards the particular question of EU membership, and to which issues of citizenship were central. The manifestation and crystallisation of this cultural divide through the direct democracy of the referendum led directly to constitutional turmoil. Parliamentarians as a group found themselves misaligned with those who voted in the referendum producing a conflict between the principles of direct and representative democracy. Brexit has generated tensions between and within different institutions of the constitution and arguments about what the rules were, and what they should be. Areas on which these conflicts and disagreements have focused have included the Civil Service, the courts, the Cabinet, Parliament and even the monarchy. The political shock of Brexit, therefore, had inherently constitutional characteristics. They are likely to continue to manifest themselves, shaping the way the constitution operates and changes in future.

Keywords

Brexit, political culture, constitution, citizenship, direct democracy

Introduction

The European Union (EU) referendum of 23 June 2016 revealed and magnified a deep cultural division in United Kingdom (UK) society. It also marked the beginning of a prolonged period of pronounced constitutional turbulence in the UK. Characteristics of this systemic disruption were conflict within and between different institutions, pressures upon existing arrangements, and disagreement about what the rules were and what they should be in future. In this article we explore possible connections between, on the one hand, the cultural divergence between Remain and Leave voters, and, on the other hand, the constitutional turmoil associated with Brexit. We take our research up to the beginning of September 2019, in the knowledge that there are more developments to follow, but there is much already to analyse in our defined time window.

We define 'constitutional' as pertaining to institutions responsible for the governance of a polity, and the rules regulating the way those institutions interact with each-other and the public (Cabinet Office, 2011, 2). We also interpret it as extending to encompass political parties. Though they are not organs of governance in the same way as, for instance, Parliament, mainstream parties are nonetheless a principal means through which the system of representative democracy functions, and through which the views of the public are supposed to impact upon policy and law making (Ingle, 2008; Webb, 2000). We concentrate on the role of the Conservative and Labour parties, in reflection of the reality that they have, for the past century, between them dominated the UK Parliament and the formation of UK governments. Our main focus is on the UK-level constitution, though we recognise that there is an important territorial and sub-UK national dimension to Brexit, to which it is not possible to give full attention here. The idea that there might be a constitutional

'crisis' has attracted some attention and criticism (McHarg, 2018; Ekins and Gee, 2018). We avoid using this label on the grounds that, in this context, it is a distraction. Rather than engaging in a debate about what constitutes a 'crisis' and whether the UK constitution has reached such a condition in relation to Brexit, we focus on analysing the pressures to which the UK constitution has become subject and its response to them, specifically in relation to emergent social divisions and the means by which they found expression, a referendum.

Citizenship, culture and identity

The 2016 EU referendum revealed a stark picture of an electorate divided by values closely linked to opposing interpretations of British citizenship. Analyses of the data of the Lord Ashcroft poll, the British Election Study (BES) Internet Panel, the British Social Attitudes (BSA) survey and the NatCen Panel Pre- and Post-Referendum surveys point to a common conclusion, albeit with different emphases: 'only those items associated with national identity and cultural outlook proved to be significantly associated with voter choice' (Curtice, 2017: 2). Other factors played a role but it is the conflicting views on citizenship which dominate the analyses.

The clustering of values around the Leave-Remain choice are distinctive, reflecting long-standing attitudes and concerns, often associated with particular socio-economic groupings and different economic concerns (Swales, 2016). The evidence consistently suggests that the preoccupation of Leave voters with national and cultural identity rests on a broad constellation of values quite distinct from those held by Remain voters, a division that is now an explicit and seemingly entrenched feature of British political culture. Ashcroft's (2016) survey shows that 'By large majorities, voters who saw multiculturalism, feminism, the Green movement, globalisation and immigration as forces for good voted to remain in the EU; those who saw them as a force for ill voted by even larger majorities to leave'. The BSA report concludes that how people voted in the referendum reveals 'a major cultural divide between those who prefer a relatively homogenous society and those who are content with a more diverse one' (Curtice, 2017: 10). Likewise, in their comparison of the voters in the constituencies of Clacton (Leave) and Cambridge (Remain), Jennings and Stoker (2016: 372) identify similar groupings of contrasting cultural values which they label 'backwater' ('inward-looking, relatively negative about the EU and immigration, worried by the emergence of new rights for 'minorities' and 'prone to embracing nostalgia') and 'cosmopolitan' ('global in outlook; relatively positive about the EU; pro-immigration; comfortable with more rights and respect for women, ethnic communities and gays and lesbians; and generally future-oriented').

The political tension inherent in this collision of values is illuminated by the issue of immigration which acts as the lightning rod to channel and fuse the cultural, economic and political dimensions of the Leave and Remain alliances. It is the surface indicator of a deep-seated cultural conflict with strongly associated economic concerns. According to the BES, the vast majority who said immigration (88%) or sovereignty (90%) was the most important issue voted Leave (Swales, 2016: 13) – two issues obviously linked because for such voters 'taking back control' was regarded as necessary to deal with immigration. The report from the most comprehensive study of the vote for Brexit, the Essex Continuous Monitoring Surveys, shows how public concern over immigration was central to explaining why people voted to leave the EU (Clarke et al., 2017). Immigration was indissolubly linked by voters to the perceived threats to national identity and culture and closely aligned with perceived threats to jobs and the NHS (Goodwin and Milazzo, 2017).

None of this should come as a surprise. The history of immigration as an issue embedded in public concern about the vulnerability of national identity to the arrival of competing cultures has been documented for two decades. Effectively, cultural pluralism has generated an unresolved competition over the definition and nature of British citizenship, a competition amplified by the parallel claims of EU citizenship (Ashcroft and Bevir, 2017; Lodge et al., 2012). It is significant that the

importance of English identity as a factor in the Leave vote emerges in all of the studies of the referendum vote, reflecting the growing significance of English ethnic majority nationalism in the UK's electoral politics as a response to the increasingly multicultural character of British society produced by immigration (Mann and Fenton, 2017; Kenny, 2014; Lodge et al., 2012). (This 'English' dimension is also important from the point of view of the territorial governance of the UK, and internal divergence in voting patterns at the referendum, as we shall see.)

The presence of a significant divide in British political culture does not necessarily mean it will find political expression through orthodox party politics. Aspects of what is now perceived as the Leave/Remain division have been present for decades. The two main UK parties, the Conservatives and Labour, who had members of both groups among their supporters, were to some extent aware of the existence of this division. At times, issues connected to this emergent division could become an important factor in mainstream political debate, as when the Conservative Party made immigration controls a central feature of its 2005 General Election campaign (Conservative Party, 2005). But the division did not become as prominent a concern for the two main parties as it would from 2016 onwards. It was a referendum, an instrument of direct rather than representative democracy, held on EU membership, that provided the lens to focus the political potential of the cultural values of Leave voters, and render the approach the main parties had previously taken less tenable.

When considering how the referendum brought about this outcome it is useful to consider a phenomenon that Lauren McLaren described in a 2002 article as 'perceived threat'. People could become hostile to the EU, her research showed, if they took the view that its promotion of the free movement of labour and the cultural movement that accompanied it endangered their own national culture. (McLaren, 2002). The EU's advocacy of ever closer political union as a vehicle for economic integration could antagonize European citizens who valued their distinctive national cultures and who construed the EU approach as a threat to them (Carey, 2002; Sides and Citrin, 2007). The strongest predictor of negative attitudes towards the EU across member states is where citizens feel their national identity is threatened by EU integration (Luedtke, 2005). This characteristic seems to have interacted with the cultural divide to produce a dynamic channelled, in the first instance, through the rise of the UK Independence Party (UKIP), usually regarded as 'populist' and on the margins of the mainstream party system. Hostility among some members of the public towards immigration and anxiety over its perceived effects on jobs and welfare fuelled support for UKIP because the party proposed addressing these issues through withdrawal from the EU (Dennison and Goodwin, 2015; Ford and Goodwin, 2014). UKIP effectively established the political infrastructure for the expression of the cultural dynamic on which the Leave campaign could build (Goodwin, 2016).

The referendum released and legitimised forces in UK politics that had not previously found such full expression. They were most noticeable on the Leave side, but there were also a cluster of Remain-associated values that became more clearly focused. The divide that opened up, and the Leave outcome that it produced, had constitutional implications on a scale that other issues and controversies might not (Blick, 2019; Bogdanor, 2019). Withdrawal from the EU in itself implied change in a variety of constitutional areas, including the legal system, the relationship between the executive and Parliament, and the internal territorial governance of the UK. That the policy of departure was driven by a referendum was in itself constitutionally significant. Though they were a relatively rare occurrence, and decisions to hold them in given cases tended to be controversial, referendums had by 2016 become an accepted part of the UK political system (House of Lords Select Committee on the Constitution, 2010). But there were aspects of their use around which clear and consistent practice was not established, or about which doubts or controversy existed. What, for instance, was the appropriate franchise for a referendum? Should their results be legally binding

and, if not, what was their force? Should a bare majority always be sufficient to determine the outcome? When and how was it possible to reverse the result of a referendum? What was the relationship between a referendum result and the will of Parliament? (Bogdanor, 2019: 261-265; House of Lords Select Committee on the Constitution, 2010; Independent Commission on Referendums, 2018). Questions of this type were of substantial constitutional importance. They were raised to a limited extent immediately before the referendum. After the Leave result, supporters of Remain deployed them when questioning the finality of the vote of 23 June 2016. Advocates of Leave presented such concerns as elitist rejections of a popular decision by those who disliked the outcome (Blick, 2019; Ekins and Gee, 2018; Weale, 2017). Brexit and constitutional controversy thereby became further entwined.

Another factor of immense constitutional significance associated with the referendum as the instrument of Brexit was that the result it produced was contrary to the wishes of a substantial majority of parliamentarians. Though Parliament, like the UK as a whole, was sharply divided over Brexit, there was a marked discrepancy between the balance of opinion within Parliament and the popular view that manifested itself on 23 June 2016. The former leant firmly towards Remain; the latter narrowly towards Leave. Three-quarters of MPs voted for Remain in 2016: a majority of the Conservative Party and an overwhelming majority of the Labour Party in the House of Commons. 56% of Conservative MPs in the 2017 Parliament were Remain supporters (Manse and Lindsay, 2017). In the House of Lords the voting record of peers on bills relating to European integration suggested that a majority were supporters of the Remain position (Kirk et al 2017). That there was a divergence between aggregate opinion in Parliament and that expressed by voters in the referendum was significant. Perhaps even more important than the precise totals was that the referendum produced one outcome, while the bulk of parliamentarians had favoured the opposite. Yet it was to this elite group of politicians, as members of the legislature and as ministers, to whom the task of responding to the referendum result fell. Never before had a referendum in the UK produced a result to which majorities in both parliaments (along with the government of the day) were opposed, yet the implementation of which would require positive action on their part. Simply ignoring the result was not a realistic option; and the structure of the single member plurality voting system used for parliamentary elections gave the referendum outcome added force, magnifying referendum's effect through a Leave majority in 63 percent of constituencies (Hanretty, 2017). As a result, in the 2017 Parliament, 44 percent of MPs (288) who voted Remain represented constituencies which voted Leave. Just 4 percent of MPs (24) who voted Leave represented constituencies which voted Remain (iNews, 2017a and 2017b). Given the robust nature of voter commitment to a Leave or Remain position, MPs found themselves in a highly conflicted position between principle and political self-interest.

Brexit therefore entailed a clash between direct and representative democracy of a type that had never arisen before. It manifested itself not only in the context of a discrepancy between Parliament and referendum voters, but of the party system. While their leaders had supported Remain at the time of the referendum, both the main UK parties were divided over Brexit and found their support bases compromised: 58% of Conservative voters supported Leave, and 37% of Labour voters (Ashcroft, 2016). Initially in the wake of the referendum they continued to be led by politicians who had endorsed Remain; but who then committed to abide by the referendum result and to leaving the EU in some form (though the Labour Leader of the Opposition, Jeremy Corbyn, eventually adopted a complex formula that allowed for the possibility of a further referendum, possibly with Remain as an option). But accepting Brexit in principle did not solve the problem of the particular form it should take: with a deal, and if so, what deal? Or without a deal? The shifting and ambiguous position on Brexit of the leadership of two main parties meant that MPs lacked clear guidance on the attitude to adopt; and some were committed to particular positions, irrespective of the stance of their leadership. With uncertainty thus a continuing feature of party policy, MPs resorted

increasingly to factionalism, with party unity deteriorating and in some cases cross-party alliances forming.

As a consequence of their ambiguous positions and internal tensions, both parties ultimately became less attractive to voters on either side of the Brexit controversy. At the May 2019 European parliamentary elections, support for parties more convincingly attached to one cause or the other rose while both the Conservatives and Labour suffered. The newly-formed Brexit Party gained 30.5 per cent of the vote and the Liberal Democrats 19.6 per cent. The traditional main parties were pushed into third and fifth place with Labour on 13.7 per cent and the Conservatives on 8.8 per cent (behind the Green Party, also promoting a further referendum and Remain). Theresa May had endured a prolonged period of political pressure and failure, including successive parliamentary defeats in 2019 for the exit deal she had agreed with the EU. Even before the European election results were known, clear opinion poll evidence of poor Conservative performance was the final trigger for her decision to stand down. Boris Johnson, who had supported Leave, and who during his 2019 leadership campaign insisted on his willingness to countenance leaving without a deal, became Prime Minister. In this sense, supporters of Brexit now had clear representation from one of the main two parties. But many firm opponents of departure still felt a need to look beyond the two traditionally largest parties. The precise impact of the cultural divide on the Parliamentary arena will have to await the results of the next General Election, but there are clear signs that the political dynamic so clearly at work in the EU elections is also now a feature of UK politics.

A claimed justification for the holding of referendums is that they can allow for the making of a decision unfiltered and therefore undiluted by the customary chemistry of party politics and representative democracy. In this instance, as well as providing an answer to a particular question about EU membership, direct democracy has allowed the dramatic and very focused expression of a wider spectrum of disagreement, involving a previously hidden aspect of the relationship between the public and their representatives. The result is that a political culture divided by identity, citizenship and the legacy of the Brexit episode (whatever form it may take) seems set to play a crucial role in shaping the future political environment. Like it or not, the genie is out of the bottle. In these circumstances, the pressure on the UK constitution to deliver a way forward has become immense in a Parliament where the customary party stability on which its traditional modes of operation were predicated has come under increased pressure from the continuing political turmoil generated by the activation of direct democracy. What constitutional tensions has the collision between direct and representative democracy produced and what future tensions are likely to be in store?

Cultural pressures and constitutional tensions

The Brexit episode, beginning around the time of the referendum of June 2016 and still ongoing at the time of writing, was characterised by a variety of constitutional tensions. They involved struggles within and between different institutions, disagreements over what the proper constitutional rules were, and the ways in which they should change as a consequence of UK departure from the EU. These tendencies were not entirely new. But that so many of them should arise, in parallel or in succession, in relation to the same basic issue, Brexit, over such a prolonged period of time and with such intensity was remarkable. Their strength and persistence are a tribute to the pressure a divided political culture can place upon the rule system of even such an established democracy as the UK. Almost no area of the constitution was spared as the political implications of the cultural divide became manifest in many and different ways, flowing like a tsunami through the organs of government.

An early example of the type of dispute that could arise centred on the role of the Civil Service during the referendum campaign and their relationship with ministers. Multiple criticism of the

government took place in this regard, from both the Remain and Leave sides. One source of controversy was the decision to limit the support that officials could provide to ministers who had chosen to exercise the option to campaign against the government recommendation of a Remain vote. This constraint upon civil servants, critics held, compromised the constitutional link between officials and the departmental ministers they supported (House of Commons Public Administration and Constitutional Affairs Committee, 2017a: 44). Other complaints involving the Civil Service included that the government had not allowed it to prepare properly for the advent of a Leave result; and that the use of public resources to distribute a government publication supporting Remain to households throughout the UK undermined public confidence in the referendum as an exercise in democratic engagement (House of Commons Public Administration and Constitutional Affairs Committee, 2017a; Independent Commission on Referendums, 2018: 123-133).

In this section we focus predominantly on core UK-level elements of the UK constitution – the UK executive; the UK Parliament; and the relationship between these institutions. Reflecting their traditional centrality to the UK system of government, by 2019 they had become the main focus for the constitutional turbulence of Brexit generated by the expression of the cultural divide through the 2016 referendum. But it is important to note other tensions that arose in relation to that referendum, to convey the sheer breadth of constitutional issues involved. One such concern was connected to the territorial diversity of voting patterns in the referendum and the significant variations in the cultural commitments underpinning them. England and Wales produced Leave majorities (53.4% and 52.5% respectively). On the other hand, in Scotland and Northern Ireland Leave achieved minority support (38% and 44.2%) This distribution accurately reflects long-term trends in differences in attitudes to the EU between the four countries and, for the purposes of this paper, can be regarded as an enduring geo-political feature of the cultural pressures on the constitution (Curtice, 2016; Curtice and Evans, 2015; Henderson et al., 2016). Those challenging the approach of the UK government to Brexit; or questioning the finality of the referendum result itself were able to draw attention to these divergences, claiming that special allowances were needed, or that the UK had not expressed a single settled will (Greer, 2018; Shaw, 2017). The prospect of Brexit created complexities for Northern Ireland, the peace process, and its border with the Republic, that would become a major factor in UK negotiations with the EU. The possibility of Northern Ireland and Scotland seceding from the UK also gained in salience (Gormerly-Heenan and Aughey, 2017; Keating 2017).

The cultural tension embedded in the territorial dimension was important in another respect, pertaining to the systems of devolved government of Wales, Scotland and Northern Ireland. In the words of the House of Lords European Union Committee, 'Brexit will remove one of the foundations of the devolution settlements, with potentially destabilizing consequences' (House of Lords European Union Committee, 2017: 5). Disputes arose over the division of powers that would return from the EU after UK exit: how would they be divided between the UK and devolved tiers? The Welsh and Scottish executives both advanced versions of the appropriate approach to take, and of the constitutional-territorial structure of the UK post-Brexit (Scottish Government, 2016; Welsh Government, 2017). Ultimately, the Welsh and UK executives reached an agreement. But the UK Parliament passed the *European Union (Withdrawal) Act 2018*, which dealt in part with the distribution of powers issue, despite the express objection of the Scottish Parliament. This event provoked arguments about whether a violation of the so-called 'Sewel Convention' had occurred. According to this rule, which is now also referred to in statute (though as discussed below it is seemingly not justiciable) legislation impacting upon a devolved system would not 'normally' be passed without agreement at devolved level (Bogdanor, 2019: 217-219). Here was an instance of Brexit prompting a constitutional confrontation between institutions *and* a disagreement about the nature of the rules themselves.

Another aspect of the constitutional turbulence of Brexit has been the involvement of the courts as the cultural conflict of the Leave-Remain divide spilled out from Parliament and the executive and into the domain of the judiciary. Among the growing body of Brexit-related litigation, the most prominent so far has been the *Miller* case resolved in the Supreme Court in January 2017. It has been subject to much debate regarding matters such as how important the judgement was in constitutional terms, whether it was correct; how orthodox it was; what guidance it might give for the future; whether it made any practical difference to political outcomes; and whether it should have been brought at all (Grant, 2017; Ekins and Gee, 2018; Young, 2017a; Young, 2017b). *Miller* is notable for present purposes for a number of reasons. It saw the courts become an arena for a constitutional battle over the question of allocation of responsibility for responding to the referendum between the executive and Parliament (though Parliament itself was not yet as assertive as it would eventually become in this regard) because the respective cultural allegiances of executive and Parliament could not be resolved through the customary constitutional procedures. The Supreme Court presented itself as upholding a traditional principle of parliamentary supremacy or sovereignty (Anthony, 2018). It concluded that, to activate Article 50 of the Treaty on European Union and commence a process of departure from the EU, the executive needed express statutory authorisation in the form of an Act of Parliament and could not act under the Royal Prerogative, a non-parliamentary power source. The court expressly rejected the view advanced by the government that the referendum result should be taken into account in determining the legal position. The grounds for this aspect of the judgement were that legislation providing for the referendum could have given the result legal force of some kind, but did not (Supreme Court, 2017). While this central finding had the effect of restricting the discretion of the executive, Parliament soon provided the authority needed, in the form of the *European Union (Notification of Withdrawal) Act 2017* (Ewing, 2017). Furthermore, in giving its judgement on *Miller* the Supreme Court also expressed the view that, despite now being referred to in Acts of Parliament, the courts could not enforce the Sewel convention (Murkens, 2017). In this respect, the Supreme Court suggested more flexibility for the UK government, in that, should it seek to legislate contrary to the wishes of a devolved legislature, the barriers to it doing so were only political.

In sum, the court was engaging directly with some of the key disputes that have arisen as a consequence of the referendum result, itself a manifestation of a wider societal division. In so doing, it – and the lower court that had made the initial judgement against the government (though in a related judgement in October 2016 the High Court of Northern Ireland had found in favour of the government) – was drawn into the very cultural controversy over which it sought to adjudicate, and seen from some quarters to be culturally partisan. Judges were exposed to political criticism from those who disagreed with the decisions reached; and there were wider criticisms that the courts were being called upon to help frustrate Brexit (Ekins and Gee, 2018; Payne, 2018). Other cases arose to which we cannot give proper attention here. Indeed, the discussion so far in this section has served mainly to give an idea of the breadth and scope of the constitutional dimension of Brexit, and its conflictual quality. We now focus on how this tendency affected the core of the UK constitution, in a manner that was inherent in the Brexit episode from the outset, but reached a new level of intensity during 2019. It involved relationships within and between institutions that have for centuries been critical to the operation of the constitution. That they could become subject to such disruption is indicative of the scale and importance of a Brexit shock propelled by the intense rivalries of the Leave and Remain cultural identities as each pursued its own emotionally charged agenda, frequently displaying little respect for traditional constitutional procedures.

First, the executive, and within it, the Cabinet. The Cabinet is a committee of senior ministers drawn from Parliament that, according to traditional constitutional understandings, has supreme responsibility for decision making within the executive. It epitomises the informality of the UK constitutional system in that it lacks a grounding in statute and operates on a basis of convention.

That is to say that, while it is subject to rules, some of which are written down in documents such as the *Ministerial Code* and *Cabinet Manual*, they have no direct legal force. They are enforced politically, ultimately by the Prime Minister, who is responsible for maintaining and interpreting the rules. A key principle of Cabinet government is that of collective responsibility. Broadly it means that Cabinet members are given the opportunity frankly to express differing views on important policy matters during Cabinet meetings. But the details of such discussions should remain confidential. Once Cabinet has reached a conclusion – summarised by the chair, and rarely after the holding of a vote – Cabinet members are committed to it as a group. They cannot publicly dissent from it, and may be required expressly to support it, regardless of the position they took during the preceding discussion. This rule of collective responsibility extends to all government ministers, whether or not they are Cabinet members. If a minister cannot abide by it because they find a particular policy or course of action unacceptable, they are, according to the convention, required to leave the government (Blick, 2016: 133-149).

Collective responsibility has always been subject to certain strains. Reports of differences of opinion within Cabinet, claiming to be based on inside accounts, have long appeared in the UK media. On certain occasions, to avoid resignations, Cabinets have agreed to set aside the rule. They did so, for instance, for the 1975 and 2016 European referendum campaigns, in which dissenting ministers were allowed publicly to oppose the government recommendation for continued membership. During the 2010-2015 Conservative-Liberal Democrat coalition administration, the convention was under pronounced pressure. The coalition agreement allowed for its suspension in relation to certain areas of disagreement; but there were also points at which one or the other party appeared unilaterally to differ from the other, without senior resignations occurring (Bogdanor, 2019: 113-134). The Cabinet divisions that arose in relation to Brexit were more remarkable still, partly because they involved a single-party government rather than a coalition but mainly because they were consistently driven by the Leave-Remain divide as a core feature of political allegiance that was seen to stand above the principle of collective responsibility.

As noted, collective responsibility was formally suspended for the 2016 referendum campaign. But after the vote had taken place, in practice it proved difficult fully to restore in a Cabinet that Theresa May constructed comprising politicians from both the Remain and Leave. Senior Cabinet ministers appeared at times to challenge the policy of the government, and arguably violate the spirit of collective responsibility. Whether or not they had broken the rules was a decision for the Prime Minister. Theresa May removed no-one for disloyalty (Mason, 2017). Perhaps she felt in too weak a political position to do so, especially following the loss of her parliamentary majority in the June 2017 General Election, and because those she might have acted against had support from pro-Brexit forces within her party, whose confidence as a Remain supporter she never fully enjoyed. During 2019 open rebellion within her own government reached an unprecedented level. On 14 March 2019, 13 government ministers abstained when the whips instructed them to vote against an amended government motion to the effect that the UK should leave without a deal in no circumstances. Again, how to interpret and respond to this action fell to May, who chose not to remove the ministers involved (Meyer, 2019). Perhaps the ministers involved had not broken any precise rules; but the Cabinet cohesion that those rules serve to promote was compromised. Behaviour of this type seems to have infuriated the person within government responsible for disciplining the parliamentary party. In an interview broadcast on 1 April 2019, Julian Smith, the government Chief Whip described ministers as providing the 'worst example of ill-discipline in cabinet in British political history.' (Kuenssberg, 2019). The dysfunction in the party system that the Brexit divide brought about had manifested itself in a serious failure of collective government. It was linked to the disconnect between the balance of political and by extension cultural alignment among parliamentarians on the one hand, and of voters in the referendum on the other hand.

The executive was divided internally. Moreover, it rested on unsteady foundations. The chief problem was the reticence of majorities in both Houses of Parliament, and especially the House of Commons, regarding a course of action that the government felt obliged, by virtue of a referendum result, to pursue. Government, in the UK system, is formed out of Parliament. While the legislature is responsible for holding the executive to account, a particular group of ministers holds office at a given time because they possess what is known as the 'confidence' of the most powerful of the two Houses of Parliament, the House of Commons. No precise definition exists of what 'confidence' means. Before the passing of the *Fixed-term Parliaments Act 2011*, like collective responsibility, it was a matter of convention with no statutory delineation; and this Act has failed to resolve important questions about how governments can be installed and removed. Some would argue it has created confusion. For instance, the Act provides for votes of no-confidence in a government in the House of Commons. If such a vote is passed, a two-week period commences, after which a General Election is triggered unless the no-confidence vote is reversed in the Commons by a confidence vote. The Act implies that the vote of confidence could be for a new government and not just the incumbent government. But it offers no guidance as to how a replacement administration might be installed in order for such a vote of confidence in it to take place. However, despite the uncertainty, in broad terms, it is reasonable to conclude that governments require support from the Commons, for their existence, for core policy measures, and for their budget. They do not have to win every vote. But they must have some degree of support for their existence and the broad thrust of policy to function effectively. During 2019 in particular, partly because of the contingencies of parliamentary arithmetic, but also because of culturally-associated Brexit divisions, the system of parliamentary government became deadlocked. The governing party was divided, meaning that the executive lacked the meaningful confidence of the Commons. But because the system works through parties, a resolution was difficult to reach. The General Election of December 2019 was in part a bid to end the stalemate.

From the beginning, the cultural divide of Brexit created potential for tension between executive and government. There was uncertainty, for instance, about the relative balance of responsibility for determining the response to the referendum. Initially, May as Prime Minister sought to minimise the role of the legislature and insisted that bringing about Brexit on behalf of the public was principally the business of the executive (Blick, 2019: 38-40). However, increasingly Parliament asserted itself, with bodies such as the House of Lords Select Committee on the Constitution insisting that it was proper for Parliament to provide the legal authority for the executive to invoke Article 50, to take an interest in negotiations as they proceeded, and that its agreement should be required for any deal reached (House of Lords, Select Committee on the Constitution, 2017: 9). Realising such principles in practice was a complicated matter. Furthermore, given that most parliamentarians were known to have a Remain preference at the referendum, there was always likely to be suspicion that, in its engagements with Brexit, particularly as it became more assertive and resistant to the government, Parliament was actually seeking to prevent or dilute it (though some parliamentary rebelliousness during the May era came from firm supporters of Leave). Tension between the executive and Parliament was manifest with respect to legal provisions designed to facilitate Brexit. In particular, parliamentarians raised concerns about provisions contained in the *European Union (Withdrawal) Act 2018* for the creation of delegated law-making authority. Critics agreed that powers of this type were needed to avoid a chaotic legal vacuum after departure from the EU. But they held that, as initially drafted, the legislation entailed too great a shift of control from legislature to executive (House of Lords Select Committee on the Constitution, 2017: 21; 2018: 74).

By 2019, difficulties in the relationship between the executive and legislature had become severe as the cultural tensions between Leave and Remain positions intensified and the room for compromise correspondingly diminished. The problem is illustrated by the fact that the May government was defeated three times in the Commons (15 January; 13 March; and 30 March) when it sought

approval for the agreement it had reached with the EU. Though the size of the defeat lessened on each occasion, it remained considerable – by 230, 149 and 58 votes respectively. There were rebellions in the Conservative parliamentary party among both former Remain and Leave MPs. The Commons inflicted further defeats on the government, for instance over important procedural matters (Cowie, 2019: 12-14). Rising rebelliousness on the part of MPs, including Conservatives over European matters, was a long term trend stretching back over a number of decades (Cowley, 2005; Cowley and Norton, 1999; Cowley and Stuart, 2012). That, since June 2017, the Conservatives were in a Commons minority (kept in office by the Democratic Unionist Party) made matters difficult for the government. Yet to lose so many votes, by such margins, on a matter of such centrality to the administration of the day, was without clear precedent.

But the May government did not resign in the immediate wake of any of these defeats, and just as the Commons was unwilling or unable properly to support the existing government, nor would it decisively remove her from office and install a government it could support. Instead, the Commons showed signs of wishing to take on some of the functions that are by tradition the province of the executive, in pursuit of a course of action that served to link a majority of its members to a particular side in the Brexit cultural divide. The conduct of diplomacy is a matter of Royal Prerogative, the term for a set of executive powers technically attached to the monarch but in practice largely under the control of ministers (Ministry of Justice, 2007). Parliament can hold government to account for the way in which it exercises the Royal Prerogative of diplomacy, and it can have a role in approving and implementing treaties once agreed. But Parliament does not, by tradition, actually conduct negotiations, which take place between governments, not legislatures. Theresa May asked for a first extension to the two-year Article 50 period on 20 March. As the new deadline loomed, in April Parliament passed the *European Union (Withdrawal) Act 2019*, seeking to force May to request a further extension. To pass this Act, parliamentarians utilised procedures to take control of the parliamentary timetable – in itself an extension into an area traditionally dominated by the executive. The purpose of this manoeuvre was to bring about a further enlargement into territory that was more usually that of the executive. In fact it seems that May had decided that she would seek this extension anyway (Cowie, 2019). It is not clear whether the Act would have been effective at forcing a course of action upon a resistant Prime Minister, or whether the EU would have acceded to a request that came about in this way.

While this article was under preparation, parliamentarians repeated this exercise under the Johnson premiership through the *European Union (Withdrawal) (No.2) Act 2019* (the ‘Benn Act’), which arguably did bring about a further extension, to 31 January 2020. Regardless of how effective these measures were in practice, it is significant that Parliament pursued such a course of action, seeking a role for itself in directing diplomatic policy that it had never assumed in the democratic era, if at all. Two traditional aspects of the Parliament-executive relationship – involving the existence of a government with the support of the Commons, and the division of responsibility for the conduct of diplomacy – were no longer functioning as they had previously. We can trace these difficulties for the traditional constitution to the cultural divide and the Brexit episode connected with it identified in this article. Not only was Parliament divided over Brexit, but parliamentary parties were internally at odds. Furthermore, in aggregate, parliamentarians were significantly more inclined towards Remain than the wider population; and a majority of MPs and Peers were uncomfortable with the Leave result of 2016 even if, in theory, they were committed to implementing it. In such circumstances, the attempt by May to secure support from both sides of the divide within Parliament failed, just as the wider efforts of the Conservative and Labour parties to maintain their broad coalitions of support crossing this social divide visibly broke down at the May 2019 European elections.

It was in this context that the Johnson premiership came about. He secured office via a Conservative leadership campaign in which he stressed his commitment to the Leave cultural identity and his prioritisation of leaving at the new deadline of the end of October, if need be without a deal, if he could not secure the changes he sought from the EU. He came to power as a consequence primarily of culturally driven changes within the electorate (sections of which had lately swung away from the Conservatives and to the Brexit Party) and the balance of opinion within his party at large. His parliamentary party was obviously a more problematic proposition; and like May he faced resistance from within this group. To secure Cabinet discipline, he reportedly required members to confirm their commitment to the possibility of a no-deal Brexit and thus to a clear Leave identity (Sheridan, 2019). This measure was a means of restoring discipline. But arguably it did not entail collective responsibility. This convention involves members first being able to debate a matter and then to unite behind the decision reached. In this instance, the conclusion was set in advance for them by the Prime Minister. The adoption of this arrangement reflected the determination of Johnson to commit firmly to a particular side in the Brexit cultural divide, a decision that in his judgement did not allow for any other policy.

Though this approach created unity within government, it intensified cultural divisions within the parliamentary party, with former ministers excluded under the new leadership now in more open rebellion. A response from the Johnson leadership was a simultaneous expulsion of 21 MPs in September 2019 (some of whom were later readmitted), emphasising the firm cultural orientation he wished the party to take. Further controversy arose in the relationship between the Johnson government and Parliament, with the decision to prorogue taken late in August 2019, that would have the effect of reducing the amount of time available to Parliament to address the Brexit issue prior to the projected departure day. The government insisted that the purpose was simply to enable the new administration to set out its legislative programme through initiating a new session. Critics of the decision held that it was a constitutional abuse intended inappropriately to prevent parliamentarians from exercising their democratic role (Rourke, 2019). Another institution was now embroiled in the constitutional controversy: the monarchy. The prorogation was authorised by the Queen through an Order in Council, issued following a meeting of her Privy Council. Elizabeth II had no role in the political decision, and was simply acting on the advice of her government. But that the use of a royal power had become subject to criticism was potentially a source of unease from the perspective of the monarchy. As an institution it places a premium on avoiding association with matters of party political dispute. The current ruler has almost always managed to avoid controversy of this type. Claims that a royal power was being abused, whether justified or not, were almost unknown on the scale that surrounded the prorogation of 2019 (BBC, 2019). They were a problem from the point of view of the need for neutrality. The Brexit divide, an inherently constitutional phenomenon, was difficult to avoid, and had now spread as far as the monarchy (Maddox, 2019). The courts once again were called in to resolve the issue, with the Supreme Court finding the prorogation unlawful.

Conclusions

The 2016 referendum exposed Parliament to a direct demand from voters for constitutional change, in the form of exit from the EU, which clearly contradicted the preferences of a majority of its members. As the numerous analyses of the referendum vote clearly show, that demand was fundamentally cultural, underpinned by a set of values concerning national identity and citizenship which conflicted with the established view adhered to by majorities within the legislature. Behind the Leave and Remain votes lies a large divide in UK political culture for the most part unexpressed over the past decades through mainstream party politics, one which will continue to inform UK politics for the foreseeable future, propelled by its contrasting interpretations of British citizenship. Direct democracy has set representative democracy a large and enduring cultural challenge. Trapped by the institutional logic of a situation it had itself unwittingly constructed, Parliament

accepted the legitimacy of the expression of that cultural challenge through the EU referendum result while proving reluctant to accept either the legitimacy of the Leave cultural values themselves or their implications for the definition of British citizenship. From this conflicted situation has flowed a broad range of constitutional tensions. Whilst these tensions are not of themselves novel, they are on a breadth and scale to test the flexibility and robustness of the constitution across most of its major institutional components. After much conflict, the party system has partially accommodated the express emergence of this divide, with the Johnson ascendancy. Leave supporters now have a clearer vehicle for their values in one of the two most established parties, the Conservatives, and should that party not deliver, the Brexit Party. The Remain side and its values are not yet so clearly accommodated, or at least not by either of the main two parties; hence the startling (though perhaps not sustainable) recovery of the Liberal Democrats, which as a party was clearly supportive of Remain, as a political force during the first half of 2019. There is no sign that the cultural impetus behind these convulsions is diminishing.

In the relatively early stages of the Brexit process, the Supreme Court majority chose to quote the constitutional scholar AV Dicey in its judgement on the Gina Miller case, noting that the UK's constitution rendered it 'the most flexible polity in existence' (Dicey, 2015: 87 quoted by Supreme Court, 2017: para 40). As Brexit has progressed, so that flexibility has been severely tested. The collision between direct and representative democracy, between the result of the referendum and the preferences of majorities in both Houses of Parliament, between different factions within the parties and within Cabinet itself; and between the Executive and Parliament, has magnified existing tensions across a broad span of the constitution's understandings and procedures.

As the traditional constitutional players manoeuvre in an attempt to deal with the demands of Brexit, they do so within the confines of established constitutional understandings. But it is inherent within the newly-exposed cultural-political division to which they are responding that this framework is likely to become subject to challenge. The trigger for the Brexit episode was a referendum which, for the first time in the use of such a vote, forced a radical course of action upon the UK Parliament and government to which it was opposed. That it was an exercise in direct democracy that drove this agenda forward, and revealed and intensified the new social division, was more than incidental. The use of referendums fitted with the wider constitutional approach some of those politicians who had placed themselves in the political vanguard of those on the Leave side of this social division. Their version of democracy emphasised the idea of legitimacy as derived from immediate contact with voters; and favoured the use of political as opposed to judicial processes as means of resolving questions of constitutional importance. By extension, they were less enamoured with the idea of members of representative bodies making decisions on behalf of those they governed; and of courts being responsible for upholding rights and constitutional rules (Carswell and Hannan, 2008). If, as may be in the process of taking place, the new UK party-political environment becomes an environment of direct contestation between two clusters of values, then constitutional controversy is likely to become a more permanent feature. It will be more than simply an aspect of the Brexit episode that helped stimulate it.

References

Anthony G (2018). Brexit and the Common Law Constitution. *European Public Law* 24 (4): 673-694.

Ashcroft L (2016) How the United Kingdom Voted on Thursday. . . and Why. Lord Ashcroft Polls, 24 June. Available at: <http://lordashcroftpolls.com/2016/06/how-the-united-kingdom-voted-and-why/> Accessed 25th June 2018.

Ashcroft R and Bevir M (2017). Pluralism, national identity and citizenship: Britain after Brexit. *Political Quarterly* 87(3): 355–359.

BBC (2019). Parliament suspension sparks furious backlash. 29 August. Available at: <https://www.bbc.co.uk/news/uk-politics-49504526> Accessed 1 October 2019

Blick A (2016). *The Codes of the Constitution*. Oxford: Hart Publishing.

Blick A (2019). *Stretching the constitution: the Brexit shock in historic perspective*. Oxford: Hart Publishing.

Bogdanor, V (2019). *Beyond Brexit: Towards a British Constitution*. London: I.B. Tauris.

Cabinet Office (2011). *The Cabinet Manual: a guide to laws, conventions and rules on the operation of government*. London: Cabinet Office.

Carey S (2002). Undivided loyalties: Is national identity an obstacle to European integration? *European Union Politics* 3: 387–413.

Carswell, D. and Hannan, D (2008) *The Plan: Twelve months to renew Britain*. London: Douglas Carswell and Daniel Hannan.

Clarke H, Whiteley P and Goodwin MJ (2017). *Brexit: Why Britain Voted to Leave the European Union*. Cambridge: Cambridge University Press.

Conservative Party (2005). *It's Time for Action: Conservative Election Manifesto 2005*. London: Conservative Party.

Cowie, G. (2019) *European Union (Withdrawal) (No.5) Bill 2017-19*. London: House of Commons Library.

Cowley, P (2005). *The rebels: how Blair mislaid his majority*. London: Politico's.

Cowley, P. and Norton, P. (1999). Rebels and rebellions: Conservative MPs in the 1992 Parliament. *The British Journal of Politics & International Relations*, 1(1): 84-105.

Cowley, P. and Stuart, M., 2012. The cambusters: The conservative European Union referendum rebellion of October 2011. *The Political Quarterly*, 83(2), pp.402-406.

Curtice J (2016). How deeply does Britain's Euroscepticism run? In: Clery E, Curtice J and Phillips M (eds) *British Social Attitudes: The 33rd Report*. London: NatCen Social Research. Available at: <http://www.bsa.natcen.ac.uk/latest-report/british-social-attitudes-33/euroscepticism.aspx> Accessed 4th May 2018)

Curtice J (2017) The vote to leave the EU. NatCen Social Research. BSA 34. Available at: http://www.bsa.natcen.ac.uk/media/39149/bsa34_brexit_final.pdf Accessed 20th June 2018.

Curtice J and Evans G (2015). Britain and Europe: Are we all Eurosceptics now? In: Curtice J and Ormston R (eds) *British Social Attitudes: The 32nd Report*. London: NatCen Social Research.

Available at <http://www.bsa.natcen.ac.uk/latest-report/british-socialattitudes-32/europe.aspx> Accessed 4th May 2018).

Dennison J and Goodwin MJ (2015) Immigration, issue ownership and the rise of UKIP. *Parliamentary Affairs* 68(1): 168–187.

Dicey AV (1915). *Introduction to the Study of the Law of the Constitution* (8th ed)

Ekins, R. and Gee, G.D. (2018) Miller, constitutional realism and the politics of Brexit. In: Elliott, M., Williams, J. and Young, A., (eds.) *The UK Constitution after Miller: Brexit and Beyond*. Oxford: Hart Publishing.

Ewing, K. (2017) Brexit and parliamentary sovereignty. *The Modern Law Review*, 80(4): 711-726.

Ford R and Goodwin MJ (2014). *Revolt on the right: Explaining support for the radical right in Britain*. Abingdon: Routledge.

Gormley-Heenan, C. and Aughey, A. (2017). Northern Ireland and Brexit: Three effects on ‘the border in the mind’. *The British Journal of Politics and International Relations*, 19(3): 497-511.

Goodwin M (2016) Why Britain Backed Brexit. *UK in a changing Europe*. Available at: <http://ukandeu.ac.uk/why-britain-backed-brexit%E2%80%8F/> Accessed 27th June 2017.

Goodwin M and Milazzo C (2017). Taking back control? Investigating the role of immigration in the 2016 vote for Brexit. *The British Journal of Politics and International Relations* 19(3): 450–464.

Grant, J (2017). Prerogative, Parliament and Creative Constitutional Adjudication: Reflections on Miller. *King's Law Journal*, 28(1): 35-61.

Greer, A. (2018). Brexit and devolution. *The Political Quarterly*, 89(1): 134-138.

Hanretty C (2017). Areal interpolation and the UK's referendum on EU membership. *Journal Of Elections, Public Opinion And Parties*. 27(4): 466-483.

Henderson A, Jeffery C, Lineira R, et al. (2016). England, Englishness and Brexit. *The Political Quarterly* 87(2): 187–199. House of Commons Justice Committee (2015). *Devolution: A Decade On* 5th Report of Session 2008–09 Volume I. HC529-1. London: Stationery Office.

House of Commons Political and Constitutional Reform Committee (2014). *Constitutional role of the judiciary if there were a codified constitution* 14th Report of Session 2013–14. HC802. London: Stationery Office.

House of Commons Public Administration and Constitutional Affairs Committee (2016) *The Future of the Union, part two: Inter-institutional relations in the UK* 6th Report of Session 2016–17. HC839. London: Stationery Office.

House of Commons Public Administration and Constitutional Affairs Committee (2017a). *Lessons learned from the EU referendum*. Twelfth Report of Session 2016-17. HC 496. London: Stationery Office.

House of Commons Public Administration and Constitutional Affairs Committee (2017b). *Devolution and exiting the EU and Clause 11 of the European Union (Withdrawal) Bill: issues for consideration*. Final Report of Session 2017-19. HC484. London: Stationery Office.

House of Commons Debate (1975). 11th March, vol 888, cols 304-17.

House of Lords European Union Committee (2017). *Brexit: Devolution*. 4th Report of Session 2017-19. HL Paper 9. London: Stationery Office.

House of Lords Select Committee on the Constitution (2010). *Referendums in the United Kingdom*. 12th report of Session 2009-10. HL paper 99. London: Stationery Office.

House of Lords Select Committee on the Constitution (2016). *The Union and devolution*. 10th Report of Session 2015–16. HL Paper 149. London: Stationery Office.

House of Lords Select Committee on the Constitution (2017). *The invoking of Article 50*. 4th Report of Session 2016-17. HL Paper 44.

House of Lords Select Committee on the Constitution (2018). *European Union (Withdrawal) Bill*. 9th Report of Session 2017-19. HL Paper 69.

Independent Commission on Referendums (2018). *Report of the Independent Commission on Referendums*. London: Constitution Unit.

Ingle, S (2008) *The British Party System: an introduction*, London: Routledge.

iNews (2017a). Every Leave constituency where the MP voted Remain. *iNews*. 12th May. Available at: <https://inews.co.uk/news/politics/every-leave-constituency-with-a-remain-mp/> Accessed 12th January 2018.

iNews (2017b). Every Remain constituency with a pro-Brexit MP. *iNews*. 28th April. Available at: <https://inews.co.uk/news/politics/pro-brexit-mps-represent-remain-constituencies/> Accessed 12th January 2018.

Jennings W and Stoker G (2016). The bifurcation of politics: Two Englands. *The Political Quarterly* 87(3): 372–382.

Keating, M (2017) Brexit and Devolution in the United Kingdom. *Politics and Governance*, 5(2): 1-3.

Kenny M (2014). *The Politics of English Nationhood*. Oxford: Oxford University Press.

Kirk L, Scott P Hughes L (2017). Analysis: How could the Lords vote on the Brexit Bill and how does it actually work? *The Telegraph*. 1st March. Available at: <http://www.telegraph.co.uk/news/0/analysis-could-lords-vote-brexit-bill-does-actually-work/> Accessed 4th January 2018.

Kuenssberg, L. (2019). Julian Smith: Chief whip attacks cabinet's post election Brexit strategy. *BBC*. 1 April. Available at: <https://www.bbc.co.uk/news/uk-politics-47768884> Accessed 1 October 2019.

Lodge G, Henderson A, Wincott D, et al. (2012). *The Dog That Finally Barked: England as an Emerging Political Community*. London: Institute for Public Policy Research.

Luedtke A (2005). European integration, public opinion and immigration policy: Testing the impact of national identity. *European Union Politics* 6(1): 83–112.

McHarg, A (2018). Navigating without maps: Constitutional silence and the management of the Brexit crisis. *International Journal of Constitutional Law*, 16(3), pp.952-968.

McLaren L (2002). Public support for the European Union: Cost-benefit analysis or perceived cultural threat? *Journal of Politics* 64: 551–566.

Maddox, B. (2019). How the Queen might be dragged into politics. *Institute for Government*. 10 June. Available at: <https://www.instituteforgovernment.org.uk/blog/how-queen-might-be-dragged-politics> Accessed 1 October 2019.

Mann R and Fenton S (2017). English national identity, resentment and the Leave vote. *Discover Society*. Available at: <http://discoversociety.org/2017/06/06/english-national-identity-resentmentand-the-leave-vote/> Accessed 23rd July 2018).

Manse H and Lindsay M (2017). Majority of new Conservative MPs backed UK to remain in EU. Available at: <https://www.ft.com/content/408da138-550b-11e7-80b6-9bfa4c1f83d2> Accessed 4 June 2018.

Mason, R (2017) Theresa May defends decision not to sack Boris Johnson. 3 October. *Guardian*. Available at: <https://www.theguardian.com/politics/2017/oct/03/theresa-may-defends-decision-not-to-sack-boris-johnson> Accessed 1 October 2019.

Meyer, C (2019) MPs vote against no-deal Brexit – but what does that actually mean? *The Conversation*. 14 March. Available at: <https://theconversation.com/mps-vote-against-no-deal-brexite-but-what-does-that-actually-mean-113492> Accessed 1 October 2019.

Ministry of Justice (2007). *Governance of Britain: War powers and treaties: Limiting Executive Powers*. London: Stationery Office.

Moran M (2017). *The end of British politics*. London: Palgrave Macmillan.

Murkens, J.E.K. (2017) Mixed messages in bottles: the European Union, devolution, and the future of the constitution. *The Modern Law Review*, 80(4): 685-696.

Payne, S (2018). The Supreme Court and the Miller Case: More Reasons Why the UK Needs a Written Constitution. *The Round Table*, 107(4): 441-450.

Rourke, A (2019) Prorogation explainer: a simple guide to what just happened in UK politics. *Guardian*. 29 August. Available at:

<https://www.theguardian.com/politics/2019/aug/29/prorogation-explainer-a-simple-guide-to-what-just-happened-in-uk-politics> Accessed 1 October 2019.

Scottish Government (2016). *Scotland's Place in Europe* Available at: <http://www.gov.scot/Resource/0051/00512073.pdf> Accessed 25th July 2018.

Shaw, J (2017). The quintessentially democratic act? Democracy, political community and citizenship in and after the UK's EU referendum of June 2016. *Journal of European Integration*, 39(5): 559-574.

Sheridan, D. (2019). Tory leadership race: Commit to no-deal Brexit or don't serve in my Cabinet, Boris Johnson threatens. *Telegraph*. 27 June. Available at: <https://www.telegraph.co.uk/politics/2019/06/27/tory-leadership-race-boris-johnson-jeremy-hunt-continues-brexit/> Accessed 1 October 2019.

Sides J and Citrin J (2007). European opinion about immigration: The role of identities, interests and information. *British Journal of Political Science* 37: 477–504.

Supreme Court (2017). *Miller & Anor, R (on the application of) v Secretary of State for Exiting the European Union (Rev 3) [2017] UKSC 5* (24 January). Available at: <http://www.bailii.org/uk/cases/UKSC/2017/5.html> Accessed 23rd August, 2018.

Swales K (2016) Understanding the Leave vote. NatCen Social Research and UK in a Changing Europe. Available at: http://natcen.ac.uk/media/1319222/natcen_brexplanations-report-finalweb2.pdf Accessed 23rd June 2018.

Weale, A. (2017) The democratic duty to oppose Brexit. *The Political Quarterly* 88(2): 170-181.

Webb, P. (2000) *The Modern British Party System*, London: Sage.

Welsh Government (2017). *Brexit and devolution. Securing Wales's future*. Cardiff: Welsh Government.

Young, A.L. (2017a) Brexit, Miller, and the Regulation of Treaty Withdrawal: One Step Forward, Two Steps Back?. *AJIL* 111: 434-439.

Young, A. (2017b) R. (Miller) v Secretary of State for exiting the European Union: thriller or vanilla? *European Law Review* 42(2): 280-295.