The European Fallout

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I can hardly begin to express what Brexit means for Britain and Scotland. Like many, I am shocked. I am shocked in part by the result itself, and in part by the very fact that I *am* shocked by the result, despite all the warning signs. Denial and wishful thinking affect us all, so before Remainers place too much blame on complacent, arrogant, elitist politicians, we should look to ourselves. They are but our mirror.

But my inability to express the meaning of Brexit also has to do with the sheer uncertainty of what will follow. The skies are ominously dark, the short and long term forecasts are deeply unpredictable. The leadership of Leave is divided between those Conservative Brexiteers who, having won, seem to have no appetite to claim the spoils of victory, and the Faragistes in and beyond UKIP whose first—and not entirely irrational—instinct is to worry that others will betray the revolution, and who, therefore, have moved quickly to set themselves up as its self-styled guardians. In neither case, is there a well-planned route ahead, a clear sense of who should lead the expedition, or a strategy for dealing with disgruntled Remain-voters in Scotland and Northern Ireland strongly minded to support the renewal of referendum politics that might well lead to the break-up of Britain. Meanwhile, of the 52% who voted to depart, many responded more to the seductive sweep of the general campaign invitation "to take back control" than to any specific grievances with the EU. Predominantly older, white, socially conservative, and located in more economically marginal neighbourhoods, this constituency of the "left behind"[1] turned against a political class they saw as dominated by socially liberal university graduates with values fundamentally opposed to theirs, on identity, Europe—and particularly immigration. They will have to wait to see what the promised restoration of control will mean and when, if ever, it will come to pass. To say that there is a gap between expectations and likely delivery is an understatement.   And presumably, further disappointment will not leave the protestors any more enamoured of the political class.

All that is before we take into account Europe's unready and unco-ordinated response to the British vote and to the prospect of exit negotiations. The Commission President's first

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[1] Robert Ford & Mathew J. Goodwin, Revolt on the Right: Explaining Support for the Radical Right in Britain (2014).

response was to urge full steam ahead under Article 50 TEU, but subsequent interventions by Merkel and some others have been more circumspect. In any case, the formal right of initiative under Art 50 lies with the leaving party, and it already seems domestic constitutional doubts over whether this initiative could or should be taken prior to further intervention and approval from the sovereign UK Parliament might provide a deeper rationale, or at least an alibi, for those counselling against precipitous action from the UK perspective. In the cold post-referendum light of day, then, it seems that neither side is in a hurry to finalise the terms of separation and work out the basis of their new relationship. It may yet be, therefore, that they never make it to the negotiating table.

But what of the fallout of the Brexit vote for the rest of the EU? Again, this is uncharted territory, resistant to accurate plotting and sure forecasting. But let me point to just three ways in which the European project has suffered damage, or been made more vulnerable, and certainly more challenging, as a result of the Brexit vote and of the process now unfolding.

The first has to do with the EU's *structural* capacity to absorb difference. Elsewhere I have argued that the UK referendum, with its crude in/out choice, abjectly failed to register the range of "in-between" options available under Europe's still evolving system of differentiated integration.[2] With its opt-outs from the Euro and Schengen, and also from some wider aspects of criminal justice and immigration policy under the Area of Freedom, Security and Justice, the UK was already a major beneficiary—probably *the* major beneficiary—of the EU's variable geometry even before it cut a new "customised membership" deal in February that would have allowed exemption even from the founding Treaty commitment to "ever closer Union." Opinions differ, of course, as to how much differentiation the EU can bear without this leading to its irreversible disintegration. But we should be aware that there are already as many as 50 different types of differentiation provided for under the Treaties, as well as various outer circles of association—or forms of "external differentiation"—for candidate states, members of the European Economic Area, the European Free Trade Association, and others more loosely connected through the European Neighbourhood Policy. And it is differentiation on this scale and of this complexity that has allowed the EU to pursue a course of Enlargement that is acceptable to a key coalition; to core states who seek deeper integration, to new members and others (like the UK) who wish to guard against a political imperative that requires all to integrate at the rate of the most Europhile states, and also to aspiring members and associating states seeking the best form of accommodation with a regionally dominant supranational polity of shifting size and scope.

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[2] Neil Walker, *The Brexit Vote: The Wrong Question for Britain and Europe,* VERFBLOG (June 16, 2016), *available at* http://verfassungsblog.de/walker-brexit-referendum/.

This is a fine balance, however, and avoiding the danger of disintegration depends upon ensuring that the price of flexibility is subscription by existing members to the core commitments of membership. Britain has sought to upset that balance, seeking to sacrifice its insider flexibility in search of a more advantageous relationship from the outside. It is a gambit which, if pursued to its conclusion, will probably fail, as the rest of the EU will be in no mood to be generous to their soon to be ex-spouse, and as, in any case, it is hard to imagine, outside some of the wilder fantasies of the Brexiteers, in what areas the UK could strike a better deal with the EU outside rather than the one it has already secured inside. Yet the wider injury may be to the system of differentiated integration itself. Rather than the trend-setter in the outer possibilities of differentiation, the British case will become a cautionary tale of the limits of this kind of architecture, and perhaps the cue for a more defensive and rigid approach—a return to a "one size first all" politics at a time when the pressures of economic integration around the Euro call for as much flexibility as possible.

The second injury caused by Brexit is *motivational*. We learn from one recent survey of EU citizens across nine member states that 70% believe that Britain leaving would be a bad thing, and only 16% believe it would be a good thing.[3] We hear from another survey of eight large states, however, that nearly half would like their own referendum on membership, and if this was granted an average of one third would vote to leave, with Eurosceptical highs of 48% in Italy and 41% in France.[4] If we put these two sets of figures together we must draw some sobering conclusions. British membership of Europe is so valued by the rest, I would venture, not just because of the economic, political and cultural contribution it makes, but also, and in the end more significantly, because of the signal it sends about the stability of the whole. While all the big states remain on board, break-up is unthinkable. If one leaves, confidence in the club diminishes, and as our second survey shows, many will feel emboldened to follow the lead of the British Leavers. No-one could have failed to notice that the most confident and most strident voices from Europe in early response to the Brexit vote have been from the nationalist Right—from Le Pen, Wilders, Salvini and the like—savouring the opportunity to sow precisely the kind of blended anti-immigrant and anti-European discord that was so evident, and so evidently successful, in the British debate. These remain minority views, even in their own countries, but they are also loud and increasingly co-ordinated views across Europe. If the counter-view presents itself simply as a series of uncoordinated defensive postures by European governments, or

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[3] Bruce Stokes, *Euroskepticism Beyond Brexit*, Pew Research Center Global Attitudes & Trends (June 7, 2016), *available at* http://www.pewglobal.org/2016/06/07/euroskepticism-beyond-brexit/.

[4] Bobby Duffy, *Half of People in Nine European Countries Believe UK Will Vote to Leave the EU*, Ipsos MORI (May 9, 2016), *available at* https://www.ipsos-mori.com/researchpublications/researcharchive/3731/Half-of-people-in-nine-European-countries-believe-UK-will-vote-to-leave-the-EU.aspx.

from EU institutions whose only headlines are the inevitably negative ones that will be generated by British exit talks, then the motivational problems will surely deepen.

Which brings me, finally, to the problem of *initiative*. One of the most EU-assertive responses to the Brexit vote has come from Emmanuel Macron, the French economy minister, who in joining calls for EU reform, urged a new democratically founded supranational project to be put to a pan-European referendum for the first time. Of course, those with reasonably long memories—and one of Europe's enduring political problems is that of collective amnesia—will recall that one of the factors in the European Constitutional Convention process of 2003-05 losing its early momentum was the decision (or rather, the non-decision) not to co-ordinate the national ratification referendums for fear of collective failure, and instead to seek either to avoid referendums entirely or run them on a strictly county-by–country basis. This strategy, of course failed, the project foundering on the plebiscitary defeats in France and the Netherlands in the spring of 2005. Macron is correct to note, then, that Europe has never had the courage to do what he now suggests. But there is nevertheless something deeply paradoxical in his suggestion.

The Brexit vote continues an unpredictable pattern of "no" votes in referenda (only some of which were subsequently reversed) on key questions of European integration, from the ratification of most of the major reform Treaties of the past 25 years to the non-ratification of the Constitutional Treaty itself, and from the non-accession of Norway to the recent Dutch rejection of a New EU association agreement with Ukraine. Arguably, those who try to make the case for Europe in a national referendum typically stand at a deep disadvantage. The binary logic of a referendum vote can all too easily be framed as an opposition between the national and the European interest, and when one is dealing with a national *demos* that framing will work to the advantage of those who position themselves most directly as guardians of the national interest. This is precisely why the alternative idea of a pan-European approach was briefly mooted in 2003, and why Macron raises that prospect again today. With a pan-European approach, it is possible to organise, speak and capture the political mood across borders, to produce a joined-up case for Europe to match the nationally organic counter-cases, and to avoid the appeal to Europe being reduced to a remote abstraction or the mere instrument of a national good. But herein lies the paradox. Macron is asking us to consider investing in a process that has delivered many setbacks to European integration at precisely the point it has delivered its latest and perhaps sharpest setback. What is more, he asks us to invest in it on such a scale that the cost of failure would be unprecedentedly high, perhaps fatally so.

We can see where he is coming from, of course. Today it feels that the long-term future of Europe has to be about more than consolidation of past goods and might well depend on the kind of democratic refounding that a popular initiative implies. Brexit has helped bring us to that point, while also leeching the confidence and motivation needed to seize any

initiative to move beyond that point. But here at least, Brexit's message is double-edged, posing a challenge and asking a question of the European project that needed to be put sooner rather than later

Buffeted by the storms of the past week I am loath to write these words, and maybe this is just another example of wishful thinking; but, as the saying goes, it is an ill wind that blows no one any good.