

Peter Moloney, PhD.  
Skidmore College

## **The Brexit Time Bomb: Are We Witnessing the Disintegration of the UK?**

*“EU law is interwoven with the devolution settlements, and throughout this period, the supremacy of that EU law, and its interpretation by the Court of Justice of the EU, have helped to hold the UK together and maintain the integrity of its internal market.”<sup>1</sup>*

*“Brexit has changed this country’s politics, chemically.”<sup>2</sup>*

### **Introduction**

When the Conservative government announced the Brexit referendum for June 2016, the only political and economic union that Brexit supporters envisioned breaking up was the European Union. They had blamed the EU for all sorts of problems, including immigration, pressure on the NHS and the erosion of British sovereignty.<sup>3</sup> However, two years later, with the clock running out on negotiations with Brussels, the prospect of the UK itself being broken up because of the decision has increased remarkably. This possibility seems to have been totally overlooked by the Brexit lobby.

My presentation will provide a brief background of UK devolution, examine how EU membership has facilitated it and assess the danger of Brexit to the current UK political structure.

### **The Origins of Regional Devolution**

Although regional identities within the UK pre-dated its completion in 1800, the date of the Act of Union that brought Ireland under direct rule from London, the origins of regional devolution to express these identities within the political structure of the UK are more recent. Until the early 19<sup>th</sup> century, political control was very centralized on London in the context of a global empire. The benefits to Scotland, Wales and Ireland in being pulled on the coattails of the world’s dominant

---

<sup>1</sup> House of Lords, European Union Committee, 4<sup>th</sup> Report of Session 2017-19, “Brexit: Devolution”, p. 3.

<sup>2</sup> Martha Gill, “With May’s Brexit Plan Rejected, the Tories are Stuck,” *The Guardian*, 27 July 2018.

<sup>3</sup> David Davis resignation letter, the Chequers Agreement “hands control of large swathes of our economy to the EU and is certainly not returning control of any of our laws in a real sense.” Boris Johnson resignation letter, UK “locked in the EU system but with no UK control over that system.” *The Guardian*, July 9, 2018.

empire were clear, even if fundamental issues of culture, priorities and even language simmered beneath the surface.

Even up to 1945, British ID was tied in with empire and the shared war experience, drowning out regional IDs within the greater mission of controlling and civilizing the world. It was a union based partly on political structure and Protestantism, as opposed to ethnic or cultural bonds. According to Keith Robbins:

“It was entirely possible, therefore, in 1945 to see in the United Kingdom of Great Britain and Northern Ireland a single country whose sense of national solidarity had been strengthened by the common experience of war, both at home and overseas.”<sup>4</sup>

Britishness was helped by common rules, citizenship, security, stability, public service. Of course, this did not stop people from having strong opinions about their fellow Britons. Former Prime Minister Anthony Eden was quoted as saying, “I do not like the Welsh. Under-sized little humbugs with radical instincts.”<sup>5</sup>

After 1945, the UK experienced a social revolution, when the creation of the Welfare State ushered in a new era of public services and increased public spending throughout the UK. While this benefited all regions in many ways, a consequence of the increased state role was the centralization of power in London. Therefore, it is no coincidence that the idea of Scottish devolution in particular grew in popularity after 1945. In 1949, over 2 million signatures were collected in support of a Scottish parliament.<sup>6</sup>

This post-war resurgence in regional assertiveness began to turn into votes and seats after 1967, especially in Scotland. In response to the growing pressure from the regions, the Labour government created the Royal Commission on the Constitution for Scotland, Wales in 1968 to examine the potential for devolution. Soon after the 1974 general election, when the SNP won 30% of the Scottish vote, the Commission issued its report and a referendum on a parliament for Wales and Scotland was held in 1979. Although Wales rejected the idea by 79%, Scotland registered 51% Yes but, since it still failed to reach the threshold of 40% of overall voters, there was to be no Scottish parliament in 1979.

During the 1980s and 90s, the idea of devolution did not disappear, indeed, the erosion of Tory power in Wales and Scotland, where they had zero MPs by 1997, only demonstrated the growing divergence between England and its neighbors.<sup>7</sup> By

---

<sup>4</sup> Keith Robbins, “Britain & Europe: Devolution and Foreign Policy”, in *International Affairs*, vol. 74, no. 1, January 1998, p. 109.

<sup>5</sup> Robbins, p. 110.

<sup>6</sup> Graham Walker, “Scotland, Northern Ireland and Devolution, 1945-79” in *Journal of British Studies*, vol. 49, No. 1, p. 119.

<sup>7</sup> According to Robbins, the Conservatives had 11 and 32 respectively in Wales and Scotland. By 1997, they had none.

the late 90s, England had become the stronghold of the Tories while the regions voted Labour and increasingly for mainly more Left Wing local parties. This created the awkward situation of a national Conservative government having no political mandate from Scotland, Wales or NI, a division evident from the Brexit vote too.

After the arrival of New Labour in power in 1997, the regions had a national government willing to entertain meaningful devolution and a new referendum to give greater powers to Scotland and Wales passed in both regions. This is the basis of the current devolved structure, where the regions have control over policies such as the environment, agriculture, health, housing, education and transport, coincidentally many of the same policy areas conceded to EU jurisdiction by the UK government.

### **The Role of EU Membership**

The EU has promoted regional development and power within its Member States since the early 1970s, when it began allocating funds and harmonizing the structure of regional development across the EU. But it really took off after the 1992 Treaty on EU. This involved a measure of voluntary sovereignty transfer from state capitals to Brussels, especially the Commission.

In the context of British regions, this offered a new opportunity for Scotland and Wales to assert their local priorities on a major stage and to bypass London in terms of funding and authority. For London, it offered a chance to reduce national spending in the regions and to reduce frustrations in the regions with central control. With this gradually increasing relationship between the regions and Brussels, including de facto Scottish and Welsh “consulates” in Brussels, the traditional dynamic between London and the regions changed and this partly explains the growing attachment of the regions to the EU.

It is striking to note the overlap between the areas of exclusive EU competence and those of the regional administrations, including environment, health and safety, agriculture and education, where the main channels of power run from Edinburgh/Cardiff to Brussels, bypassing London. This gradual distancing of the regions from London went under the radar for many years but many were taken by surprise when it was exposed in the 2016 vote. English voters clearly diverged from their neighbors in Scotland and NI and posed some awkward questions about just how united the UK actually was.

### **Scotland**

In Scotland, there is a great concern for the status and extent of Holyrood’s devolved powers, with a raft of EU policy areas being returned to the UK but with no agreement on how they will be shared between Westminster and the regions. He

---

potential for serious disagreements on who is entitled to these powers is significant. Moreover, all British regions depend heavily on EU agricultural and regional development funding. Who will fill this gap after Brexit?

In 2017, the UK Supreme Court ruled that London did not need the approval of Scotland, Wales or NI parliaments to officially trigger Article 50, leaving the regions in quite a powerless position, provoking the fear that the post-Brexit era would involve a power grab by London.

After 20 years of a successful co-existence and ever-expanding Scottish local authority, partly due to EU membership, this shift represents a kind of “fundamental change” to the Edinburgh-London relationship identified by the SNP as a justification for a second independence referendum.

In 2001, Timothy Garton Ash made a prescient prediction that actually became the reality of the 2016 vote: “British opposition to Europe is largely English opposition to Europe. Attitudes toward Europe in Scotland and Wales are much more positive. A Conservative opposition that continued on its anti-European course could end up destroying the very thing it claimed to defend: the United Kingdom.”<sup>8</sup>

### **Northern Ireland**

*“A line of lorries in Dover is an economic challenge, a line of lorries in Newry is a constitutional crisis”<sup>9</sup>*

In Northern Ireland, these risks are compounded by several factors. First, if the UK leaves the Customs Union as planned, the invisible Irish border will become an official external EU border, with significant implications for peace, trade and politics on the island. Second, the Good Friday Agreement, the legal guarantee of peace on the island since 1998, is founded on permanent Irish and British EU membership.<sup>10</sup> Brexit throws its very existence into doubt. This fragile region will soon be subject to a new political and economic reality that it democratically rejected. To add insult to injury, Brexit is being spearheaded by an English political party that does not even contest elections in the North.

Finally, NI has been without its own political authority since early 2017, when the power sharing structure between Sinn Fein and the DUP broke down. It cannot be

---

<sup>8</sup> Timothy Garton Ash, “Joining the Continent to Unite the Kingdom”, The New York Times, June 7, 2001.

<sup>9</sup> Duncan Morrow, “Playing with Fire: Brexit and the Decay of the Good Friday Agreement”, LSE Brexit blog, August 1, 2018, <http://blogs.lse.ac.uk/brexit/2018/08/01/playing-with-fire-brexit-and-the-decay-of-the-good-friday-agreement/>

<sup>10</sup> The Scottish, Welsh and Northern Irish parliaments are all prohibited from passing laws incompatible with EU laws. Derek Birrell & Ann Marie Gray, “Devolution: The Social, Political and Policy Implications of Brexit for Scotland, Wales and Northern Ireland,” Journal of Social Policy, (2017), vol. 46, no. 4.

overstated the significance of having no regional representation to engage with the Brexit process on NI's behalf, especially when the Sinn Fein MPs elected to London refuse to take their seats.

As a deprived region with a complicated political past, NI benefits enormously from EU funding. Until 2013, the EU's Special Fund for Peace & Reconciliation has invested over 1.3 billion euros with further funding guaranteed until 2020.<sup>11</sup> All this funding is now in jeopardy.

At a defining moment in modern British and Irish history, NI effectively has no voice and the idea of an all-Ireland referendum on politically uniting the island has actually become part of the discussion.

The irony of all of this is that the very party that defines itself by its pro-union identity may inadvertently have triggered the legal and political disintegration of the UK and the unification of Ireland, the latter representing a feat unrealized by generations of Irish republicans, who were actually trying to achieve it.

---

<sup>11</sup> Ibid, p. 770.