

## **BRITAIN AND THE EUROPEAN UNION REVISITED: SOME UNANSWERED QUESTIONS**

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The relationship between Britain and the European Union has attracted a great deal of academic analysis of a mainly historical narrative character. This has often been written in terms reminiscent of the *Sonderweg* (unique path) tendency in German historical writings of the 1960s and 1970s. These writings stressed Germany's historical uniqueness and sought for historically determined explanations of its departure from the path of democratic virtue. They have been much criticised for being excessively teleological. A classic early example of this genre, albeit by a sociologist, is Ralf Dahrendorf's **Society and Democracy in Germany** (1968). It is typical of later work with history simply being used to illumine the path to the Third Reich. Britain, the sometimes explicit but often implicit comparator, is presented in very idealized terms.

Turning now to writings on Britain and Europe, we see an analogous process at work (from Camps (1964) to George (1991)). Preliminary assumptions, often unstated, about the virtue and normality of the path taken by the six original members is contrasted with what is seen as a negative and unique reaction by Britain. The task of the historian thereafter becomes that of pathologist concerned with identifying the key factor or syndrome which determined Britain's dysfunctional behaviour.

Over a period of time there has been a marked convergence on five factors:

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- Britain's role as belligerent and victor in the Second World War. This is held both to have strengthened public loyalty towards the British state and its institutions and to have conferred a special post-war status on Britain symbolized by its permanent membership of the Security Council of the United Nations. This view is now questioned, however, by a school of revisionist historians who argue that Britain might have secured a more important post-war role by concluding peace in 1941 (Charnley 1993).
- An atavistic attachment on the part of the British political class to concepts of national sovereignty and balance of power.
- The relationship with the United States often referred to in Britain and less frequently in the United States as the Special Relationship.
- The Commonwealth.
- The lesser role of agriculture and the British preference for liberal trading partners. This could be called the repeal of the Corn Laws argument.

Several popular studies of Britain and Europe simply proceed on what one might dub the Casablanca method of 'rounding up the usual suspects', while more ambitious studies look for the loaded gun, for the key determinant, normally the attachment to sovereignty.

The exclusive focus on the differences between the United Kingdom and the original six contributes to a view which emphasizes undoubted continuities in British policy at the expense of shifts in the British position and which portrays Britain as an 'awkward partner' (George 1990). Bulpitt (1992) points to variations in Conservative strategy towards the European Community between 1961 and 1992: for example the Heath period cannot be convincingly described by the 'awkward partner' label. Part of the problem here is that 'awkwardness' is never properly specified; is it disagreement on some policy issues and, if so, how many does it need to qualify as awkward, or is it a refusal to accept the same goals as the other partners?

The existence of palpable differences between the U.K. and the original six has rendered the 'awkward partner' school curiously seductive however and, cuckoo-like, it has crowded out further enquiry and refinement. It is, perhaps, no accident that the British scholar who developed the domestic politics model applied it first, not to the United Kingdom, but to Germany, though Simon Bulmer has recently turned his attention to Britain (Bulmer 1992).

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This concentration on British uniqueness has a number of clear deficiencies - the first and most obvious of which is that Britain was not the only democratic western European country which failed to join the original Community. Indeed, the present enlargement negotiations should remind us, if we needed reminding, that a number of democratic European states (which would have been eligible initial candidates, unlike Portugal and Spain) are still not members of the Community. A research strategy which explored common factors between Britain and these states might have yielded at least as interesting results as the strategy of contrasting Britain and the original six. An obvious parallel might be the general attachment of the Scandinavians, Austria and Switzerland to sovereignty, albeit on divergent grounds which include the welfare-state ambitions of the Scandinavians and the neutrality of Austria, Finland and Sweden. Another parallel is the way in which the Nordic Council served as an alternative external point of reference for Scandinavia as the Commonwealth did for Britain. Surprising as it may seem, there is no published historical account which looks closely at the relations between Britain and other members of 'the outer seven', particularly the Scandinavians in the period 1957-72 (but see Archer (1974)). Now would seem a very appropriate time to undertake a comprehensive study of the policies of these states, since the remaining states of the European Free Trade Area, with the exception of Switzerland, are scheduled to join by January 1995. A comprehensive study of the experience of those years should contribute something to telling us the degree of commonality those states might display with each other and with Britain in the European Union.

### **MULTINATIONAL BRITAIN AND ITS IMPLICATIONS FOR THE SOVEREIGNTY DEBATE**

An even more serious gap in the treatment of Britain and Europe is the absence of any sustained account of the relationship between the multinational character of the British state and the issue of the European Union. Bulpitt (1992) does recognise this dimension and writes from an explicitly English standpoint, and Bulmer recognizes that the sovereignty argument has an internal and external dimension (Bulmer 1992, p.27). By contrast, Scotland fails to make it into the index of George's **An Awkward Partner**.

In one sense this is hardly surprising since the constitutional arrangements of the United Kingdom obviously provide no equivalent to the institutionalized participation of the German Länder in framing the European policy of the Federal Republic. Scottish and Welsh concerns on day-to-day policies are fed

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into the United Kingdom position ultimately through the participation of the Scottish and Welsh Secretaries in the Cabinet, and it would be difficult to maintain that they are influential except on a relatively narrow range of concerns, particularly the Common Fisheries Policy, some aspects of the Common Agricultural Policy and Regional Policy. Membership of the European Union has, however, significantly complicated that task from the perspective of the present Government of preserving the status quo in British constitutional arrangements. Scottish dissatisfaction with its internal status focuses on European Union as an alternative site for Scottish aspirations.

Political discourse in Scotland, including the debate about devolution and independence, now takes place as much about the terms on which Scotland might participate in the European Union as about Scottish attitudes to the United Kingdom (see many of the contributions to Prince (1993)). Indeed, the decision of the United Kingdom government to locate the December 1992 Summit in Edinburgh was a response to those pressures, while the mass popular demonstration for a Scottish Parliament on December 12th demonstrated the continuing gap between Scottish aspirations and central-government responses.

### **SUBSIDIARITY**

The tension between the assumptions of the British central government and Scottish perceptions is well illustrated in the parallel debates that are taking place in London and Edinburgh on the concept of subsidiarity (Scott et al 1994). For the United Kingdom government, subsidiarity is a procedural concept which sets up criteria for deciding when decisions are best retained at a member state level (there is a strong bias in favour of decision at this level), and it is taken as self-evident that those decisions will be made at the centre of the state; subsidiarity in this view starts at the water's edge. The Scottish debate has taken as its point of departure not Article 3b of the Treaty on European Union, but the substantive commitment to taking decisions 'as closely as possible to the citizen', expressed in the Preamble. This view clearly has implications for the internal structure of the United Kingdom, implications which would have been very hard to resist if the Conservatives had performed in the 1992 election as the opinion polls leading up to the election indicated and had failed to return enough MPs to staff a Scottish administration. This remains a potential scenario at the next General Election.

There is also, as numerous public opinion surveys have demonstrated, much more support for a different gloss on Article 3B. The idea that the best level

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could be above the level of the nation state attracts much more support in Scotland than it does in the southern parts of Britain. As the climate of hostility towards the European Union hardens in those areas, it will put further strains on the Union.

Scottish opinion has also been preoccupied with the question of membership of the new Committee of the Regions, and was opposed to the view that Scotland or Wales could be represented by their Secretaries of State. This was an early idea of the UK government, but they would in the eyes of their critics have been even more imperfect representatives of Scottish opinion in the alternative forum of Europe than they are in London since the point of the Committee of the Regions was to represent regional opinion. The United Kingdom government was, however, defeated by an opposition amendment in Committee stipulating that all members of the Committee be local authority representatives; all the representatives from Scotland are members of a local authority. The amendment also granted Scotland five members, which was about double the number to be expected on demographic grounds, and Charles Gray, of Strathclyde, was nominated to lead the British group and received British Government support in his unavailing bid to become President of the Committee.

Controversy has also not been absent from the Welsh debate. David Hunt, the former Secretary of State, at times indicated that Welsh participation in the Committee of Regions was an acceptable substitute for devolution. His successor, John Redwood, a hardline Eurosceptic and Thatcherite, has stamped hard on all moves to project a distinctly Welsh voice in Europe, and was particularly concerned to ensure that the Welsh Development Agency stressed the idea of Wales as just another region of the United Kingdom, rather than projecting Welsh distinctiveness.

### **THE IRISH DIMENSION**

Conventional accounts of the British state invariably ignore the impact of European Union on that part of the British state called Northern Ireland. Any comprehensive account of Britain and the European Union needs to take into account the manner in which the triangle London-Belfast-Dublin has been affected by membership of the Union. The Downing Street Declaration of December 1993 is inexplicable without taking this dimension into account. The readiness of the UK Government to contemplate ceding sovereignty in Northern Ireland reflects a range of factors. They include the virtual disappearance of the religious cleavage in mainland British politics, the end

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of the Cold War and the consequent loss of importance in Northern Ireland's strategic position in relation to Britain's maritime strategy, the cost in both financial and in terms of life of maintaining order there, and United States pressure. At a deeper level it reflects the way membership in common in a European Union has blunted the adversarial character of British-Irish relations and makes it possible to contemplate a redefining of the boundaries of the UK state. In the latest round of European Union structural funds which was announced in July 1994, the EU Commission has made a particular point of allocating funds which will have a trans-border affect in Ireland. This focus has the explicit support of both the British and Irish governments.

### **UNEQUAL RELATIONSHIPS**

The Union settlement with Scotland, unlike the later Union with Ireland in 1801, did provide for Scottish autonomy in the areas of education, law and religion but the exercise of sustained bargaining with territorial governments who possess established competences is wholly absent from the experience of central British government. The British domestic experience is one of an unequal and dependent relationship between core and periphery expressed most characteristically in the doctrine of the sovereignty of the Westminster Parliament and unfettered by a written constitution. Scottish legal opinion (see *MacCormick v. Lord Advocate* 1953) still argues that the Treaty of Union has in some respects the status of a Constitution, but this finds little echo in London. Wider Scottish opinion has also traditionally been much more attached to what they see as a historical tradition of popular sovereignty expressed in pre-Union Scottish institutions. It remains a central tenet of Conservative statecraft to preserve this relative Scottish autonomy.

### **EXTERNAL RELATIONSHIPS**

In the area of external relationships, the defining historical experience of the British political elites is also with unequal relationships.

Within the imperial framework, the United Kingdom clearly occupied the central position, and that remained the case even in the Commonwealth, while that institution still possessed some importance. NATO fell into the same institutional leader-led relationship, with the United States clearly occupying the leadership position. This pattern of relations was one with which successive United Kingdom governments have felt very comfortable, although the dependency of the UK on the USA has been masked by a

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rhetoric of 'special relationship' and a British perception that it was especially favoured among the subordinate members of the alliance. In NATO, the UK government set aside its commitment to the autonomy code. The attachment to a sovereignty and balance-of-power-thinking often associated by commentators with Britain has applied since de Gaulle more obviously to French rather than British security policy.

### **UNITARY GOVERNMENTS**

The absence from the British internal and external historical record of bargaining with other governments on a basis of equality on crucial institutional issues interacts with an absence of experience of coalition government. This lack of coalition experience continues to inform negotiating strategy. Margaret Thatcher would have been unimaginable in a coalition context, and her lack of understanding of the exigencies of coalition government led her to underestimate the dynamic potential of the Single European Act, which she perceived as a damage limitation exercise where unanimity would continue to be the decision rule in relation to interests vital to the United Kingdom. In practice, however, once unanimity had been departed from, majority voting proved inherently expansive as positions on different issues were widely traded.

### **PARTY MANAGEMENT**

The degree to which the EU policy of UK governments has been affected by considerations of electoral advantage and party management has not gone unremarked in academic studies. The influence of party management on the policies of Labour governments has been fairly well explored in the literature, but the published literature on Conservative governments remains very thin (but see Kaiser (1994)). Indeed, one is sometimes tempted to paraphrase Henry Kissinger's remark that there is no such thing as Israeli foreign policy, only Israel domestic politics.

This argument is sometimes put in the more sophisticated form that while the institutions of British Government have adapted to EU membership, the British political system has failed to build a domestic consensus for this adaptation. While the latter part of this argument is self-evidently correct, it is difficult to accept the first part. It is true that the central ministerial core of UK governmental machinery has adapted fairly well, but the House of Commons, like legislatures elsewhere in the European Union, has failed to

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develop proper scrutiny procedures for European legislation (the only exception is the Danish Folketing). Paradoxically the House of Lords, the most idiosyncratic and unmodern element in the British system, has devised a widely admired Select Committee system. The UK centralized state machinery as a whole, however, has not adapted to membership in a deepening European Union where regional/national discontent in Scotland and Wales can find an alternative voice and where they increasingly feel frustrated by comparison with their counterparts in regions in other European states which allow regions a much greater opportunity to participate (Scott et al 1994, pp.61-65).

### **THE BRITISH GOVERNMENT, THE TWO UNIONS AND THE FUTURE**

This article has argued that while membership in the European Union has eased the relationship between the United Kingdom and Ireland, it has, since the Thatcher Government, put further strain on the relationship between the United Kingdom Government and Scotland. When he became Prime Minister, John Major faced the dual challenge of defusing the Scottish crisis without conceding permanent constitutional change. At the European level his task was to reverse British isolation without again conceding far-reaching constitutional change, an aim in which he succeeded at Maastricht but which is now gradually beginning to come apart.

John Major's government has been able to preserve its autonomy vis-a-vis pressures from Scotland. The reconsideration of the terms of the Union proposed by Prime Minister Major before the 1992 election has predictably failed to occur, and the government has been prepared to reorganise Scottish Local Government against considerable opposition in a mammoth bill that George Robertson, the Shadow Scottish Secretary, has dubbed 'Maastricht without the laughs'. In relation to the European Union the government hopes that the traumatic nature of the Maastricht ratification process and the pressures flowing from enlargement will allow it to preserve its autonomy. Its version of subsidiarity which has a presumption in favour of the return of competences from Brussels to the state capitals has, for the moment at least, won out against those who assume subsidiarity is a federal device.

British Government spokespeople asserted for a time after Maastricht that the UK was now less isolated than at any point in the past. The continual concessions to the Eurosceptics have undermined this claim, however, and

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John Major's view of a multi-speed, multi-track Europe announced during the European election of 1994 is a clear damage-limitation exercise.

Within Britain, the Government's view of subsidiarity has unsurprisingly prevailed, given the lack of deep-seated regional attachments outside Scotland and Wales, both areas which are weakly represented in the governing majority. This is unlikely however to contribute significantly to the restoration of a missing electoral authority, and John Major, in a break with recent Conservative governments, has, as part of an increasingly desperate search for a winning formula, redefined the search for autonomy to include being prepared to contemplate ceding sovereignty over an area in which Britain has 'neither an economic nor a strategic interest', Northern Ireland. In other words, he is prepared to redefine the UK state, a development in its way much more radical than his earlier 'heart of Europe' policy.

This article has argued that conventional analyses of British policy towards the European Union have failed to address properly the connections between the external and internal faces of policy and most centrally have neglected the building blocks of the British state. It has been further argued that, while a central element of Conservative governments in relation to the European Union is the drive to preserve internal and external sovereignty, this is not an invariable policy; one can point here to the Heath Government.

What remains open to question is the degree to which governments possess an explicit statecraft which unites and links policy in both areas. Of course, British governments consistently stress that involvement in the European Union must not impact on British domestic constitutional arrangements. This argument has been much weakened by the actions of the European Court of Justice, the readiness of judges in the UK jurisdictions to seek guidance from the ECJ under Article 177 without prior consultation of the government, and by the House of Lords in making rulings favourable to the arguments of the European Court of Justice. An example of these rulings is in *R. v. Secretary of State for Employment, ex parte Equal Opportunities Commission*, in 1994, in which it declared sections of the Employment Protection Act 1978 as incompatible with Community Law (since they denied part-time workers equal rights with full-time workers).

As a counter example, one of the internal government arguments against resolution by referendum during the Maastricht imbroglio was that it would make resistance to a referendum on constitutional change in Scotland more difficult. And yet on other occasions one gets the strong impression that there is no unifying strategy and that autonomy is sought in each area without too

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much regard for coherence, and that 'events' still have a major impact. A recent example of incoherence was the UK government's apparent willingness to concede a referendum in Northern Ireland where opinion polls suggested that a majority favoured the present arrangements, and its refusal to countenance a similar procedure for Scotland where support for the present arrangements is, by any measure, well short of a majority. Now that the Liberal Democrats have, to all intents and purposes during the European elections, endorsed a referendum for far-reaching proposals on European issues, and broken the consensus among the United Kingdom party leaders, a referendum on Europe seems much more of a possibility with all its attendant implications for the Scottish debate.

### **CONCLUSION**

Participation in the European Community has thrown some of the central features of the unmodern British state into sharp relief. It has increased, rather than weakened, a pre-existing Scottish sense of distinctiveness within the United Kingdom. The Conservative Party has thus not been able to set the terms of debate on the future of European policy in Scotland. The key distinction in Scotland is not a crude distinction between degrees of enthusiasm for the European Union, but on the terms on which Scotland might participate in the Union. The Government's position that Scotland simply participates on the same terms as other parts of the United Kingdom is not without some support and it can point to some successes in the period since the conclusion of the Maastricht Treaty. The decision to host the European Council in Edinburgh in December 1992 was a clear attempt to appeal to Scottish opinion, though it also provided a unique European stage to air Scottish disquiet about the absence of a Scottish Parliament. Less predictably, Scotland Europa, the Brussels arm of Scottish Enterprise, has proved to be extremely successful, even though at the outset it looked like being fatally constrained by nervousness in the Scottish Office about UKREP's monopoly of representation and by the absence of accountability to a regional government and parliament on the German model. Much of the credit here belongs to its first Director, Grant Baird, who was able to entice so many Scottish organisations into Scotland Europa that it has acquired de facto the representative character that its initial organisational remit seemed to preclude. He has also been extremely skilful in playing the card both of Scottish distinctiveness and relying on UKREP and the United Kingdom Government when necessary to secure favourable decisions in the Council of Ministers. The most obvious success of his tenure was the granting to the Highland and Islands Region Objective One status.

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The constitutional status quo option is weakened, however, by the very weak standing of the Conservative Party in Scotland and its failure to make adjustments on the constitutional issue. The political battle on the European issue in Scotland is at its most intense between those in the Labour and Liberal Democratic parties who see the Committee of the Regions as a suitable vehicle for Scottish aspirations and the Scottish National Party view that Scotland can only participate meaningfully as an independent state. Although the Committee of the Regions project has the support of the parties that represent the majority of Scottish opinion, it may prove difficult to implement given the heterogeneity of interests represented in the Committee and its weak organisational status. It can only improve that status if it is able to refine a plausible common interest which it can then attempt to press on the member governments. The first meetings of the Committee have not been encouraging in this regard.

The changing nature of the European Union, which looks set for successive rounds of enlargement throughout the next decade, may well weaken the argument that much more influence can be gained by being part of a large state as more and more small states join the Union and thus strengthen the project of the Scottish National Party. Those states can certainly be expected to continue to oppose attempts to streamline the Union and to load the dice further in favour of the large states. The recent controversy about Qualified Majority Voting was resolved in a way which continues to privilege small states. The large-state argument will also lose much of its force in Scotland if the United Kingdom is seen to lose influence in the European Union. The attempt by John Major to placate the Eurosceptics by a series of ill-judged initiatives on qualified majority voting and the European Commission Presidency carries the risk of further marginalising the United Kingdom in a way that public opinion, especially in Scotland, will apprehend.

While such a marginalisation is susceptible to reversal by a different policy, it is much more difficult to see what any present or future British government can do to prevent the perceived loss of status brought about by the changed policy of the United States. Britain's post-Yalta position has depended on the borrowed prestige of being seen as the United States's closest ally in Europe. This endowed Britain with a privileged position in NATO and made Britain very reluctant to see the European Union develop a defence and foreign policy identity. This position was, however, dependent on Germany's absence as an important power factor. Since Unity it has become increasingly clear that the United States looks on Germany as its key European ally which will be able, as the central player in a European construction, to take on some of the burdens needed to ensure continued stability in Europe, burdens that the

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United States wants to shed. The United States began to take this view slightly before Unity in Bush's 'partnership in leadership' initiative of June 1989, but never with the force of the Clinton/Kohl meeting at the Brandenburg Gate on 12 July 1994. This meeting, which coincided with the decision of the Federal Constitutional Court that 'out of area' operations were permissible within the Constitution, left the way free for future German governments to respond in a more meaningful way to American expectations. The full impact of these events is as yet incalculable, but they are bound to be associated with a further decline in the status of the United Kingdom.

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