DIS-INTEGRATION: REFLECTIONS ON THE LEGAL, POLICY AND PRACTICAL CHALLENGES RESULTING FROM THE UK'S WITHDRAWAL FROM THE EUROPEAN UNION

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Abstract

In 2016 the UK citizens voted by a small margin to leave the European Union, a collaboration of which it had been a founding member. The following four years witnessed media messages that reinforced public narratives of 'taking back control' and 'national sovereignty', deepening social divisions and promoting populism. At the same time, as there had been no agreement about what withdrawal would mean, even between elected representatives, parliament consistently failed to achieve consensus on the terms of that withdrawal. Indeed, there was an unsuccessful attempt by the then prime minister to achieve a 'no-deal' withdrawal by illegally proroguing parliament. The rule of law is a vital balance in a democratic system. In the UK it is increasingly visible as contested ground as the right-wing government seek to legislate for political ends.

There is no doubt that the consequences of leaving the EU have been detrimental to Britain's economic health with a growth in homelessness and in the number of households experiencing food insecurity. At the same time, substantial legislation has been enacted to further limit people's freedom to protest and to seek to control inward migration. Most recently, controlling migration has become so politicised that a law is proposed to assert Rwanda's safety for people seeking asylum as a remedy to the supreme court's ruling that it was unsafe.

The functions of law have been identified by UK scholars as: the regulation of power structures; social engineering; shaping attitudes and behaviours; promoting ideology; and finding solutions to social problems. This paper shines a light on the destructive consequences of the law being used in the service of a neoliberal agenda, taking the perspective of a small NGO in southwest England to illustrate the consequences of Brexit for refugees, students and wider society.

Students and Refugees Together (START), winner of the European Citizens Award in 2017, has, for 22 years, provided support to people granted leave to remain whilst providing practical placements to students of social work and allied professions. From this perspective, the loss of international cooperation and the proliferation of new legislations has contributed to a dis-integration in social mobility, understanding and human rights.

Keywords: Law and policy, strengths approach, student learning, Brexit, international mobility.

Introduction

This paper shines a light on the destructive consequences of the law being used in the service of a neoliberal agenda, taking the perspective of a small non-government organisation (NGO) in southwest England to illustrate the consequences of Brexit for refugees, students and for wider society. Beginning with an account of the social and political context for the decision to leave the European Union I show how the referendum result created a dilemma for politicians on both sides. Maintaining a focus on law, policy and practice, a brief introduction follows to the NGO Students and Refugees Together (START). These sections provide the context for an examination of the way migration has become used by UK politicians as a means of demonstrating their effectiveness to the public, driving a narrative of nationalistic strength and border security. The 2023 Illegal Migration Act and the Safety of Rwanda (Asylum and Immigration) bill are evidence of a government moving 'towards

totalitarianism' as expressed by Lord Carlile, a leading barrister and crossbench peer.¹ The different functions of law are illustrated by a focus on the population generally, forced migrants specifically and students wanting to extend their education through international study. Finally, consideration is given to the role of academic institutions in the resistance to dis-integration and to activating that potential.

1. Leaving the European Union

It could be argued that the decision to leave the European Union came as a surprise to voters and to politicians alike. The referendum was issued by David Cameron (the then prime minister) as a strategy to silence right wing members of the Conservative party who were dissatisfied with the UK's relationship with the EU. Although a founder member of this collaborative body committed to peace and prosperity through consensus, the UK's identity, as a country without a land border with the rest of Europe, except on the island of Ireland, meant the relationship had always been ambivalent.²

The failure of Cameron's strategy is eloquently conveyed through the artist Grayson Perry's work in which he depicts the similarity between the voters on each side through two ceramic vases displayed in London's Victoria and Albert Museum. The pieces stand over a metre high and are decorated with images sourced from the public. Following the referendum Perry asked Leave and Remain voters to choose their favourite brands and colours, define Britishness, share pictures of their tattoos and send selfies. Both are finished in a blue glaze – the preferred colour of both sides. He says of the work "The two pots came out looking remarkably similar, which is a good result, for it shows that we all have much more in common than that which separates us." ³

When the referendum was held, only 72.2% of those eligible to vote took part. Had this been a union ballot over whether to strike or not, it would not have been deemed valid. The government's own rules state: "Where the majority of those who were entitled to vote are normally engaged in providing important public services then at least 40 per cent of those entitled to vote must vote 'yes' to the industrial action proposed". The total number eligible to vote in the referendum was 46,500,000 of which 40% would have been 18,600,000. This contrasts with the 17,410,742 who actually voted to leave. It is significant to note that when the UK voted to leave the European Union on 23rd June 2016, although leave won 51.9% of the vote across the UK this was made up of 53.4% in England, 52.5% in Wales, 44.2% in Northern Ireland and 38.0% in Scotland. Remain won over 50% of the vote in three electoral regions: Scotland, Northern Ireland and London. Nonetheless, the Conservative government chose to treat the decision as binding.

In keeping with events for which there has been little preparation and limited understanding of what it would mean, people largely behaved in defensive ways, each side claiming that others were misguided. This dramatic attitudinal division did not reflect previous party alliances and so all politicians were caught by a populist movement that precluded nuance, instead consistently referring to the outcome as 'the will of the people'. The following four years witnessed media messages that reinforced public narratives of 'taking back control' and 'national sovereignty', deepening social divisions and promoting populism. At the same time, as there had been no agreement about what withdrawal would mean, even between elected representatives, parliament consistently failed to achieve consensus on the terms of that withdrawal. Indeed, in order to fulfil his promise to 'get Brexit

¹ Weaver, M., UK's Rwanda Bill is a 'step towards totalitarianism' says Lord Carlile. The Guardian, 18th January 2024. https://www.theguardian.com/uk-news/2024/jan/18/uk-rwanda-bill-is-a-step-towards-totalitarianism-says-lord-carlile [L. s. 04.03.2024].

² Oliver, T. Europe's British question: The UK–EU relationship in a changing Europe and multipolar world. Global Society, 2015, 29(3), 409–426. https://doi.org/10.1080/13600826.2015.1044425.

³ Artylist, Grayson Perry Brexit Vases go on Display at V&A, 2019, https://artlyst.com/news/grayson-perry-brexit-vases-go-display-va/ [L. s. 04.03.2024].

⁴ Gov.UK, New Strike Thresholds for Important Public Services, Dept. for Business, Innovation and Skills, UK Government, 21st January 2016. https://www.gov.uk/government/news/new-strike-thresholds-for-important-public-services [L. s. 04.03.2024].

⁵ Uberoi, E., Hawkins, O. and Keen, R., Brexit: How did the UK vote? House of Commons Library, Friday 24th June, 2016, https://commonslibrary.parliament.uk/brexit-how-did-the-uk-vote/ [L. s. 04.03.2024].

done', there was an unsuccessful attempt by Boris Johnson, the then prime minister, to achieve a 'nodeal' withdrawal by illegally proroguing parliament. The fascinating account of how this attempt was halted can be found in Jolyon Maugham KC's autobiography in which he describes his work to make the law available to the public through the crowdfunded 'Good Law Project'. The rule of law is a vital balance in a democratic system. In the UK it is increasingly visible as contested ground as the rightwing government seeks to legislate for political ends, an issue to which I will return.

2. Students and Refugees Together

Students and Refugees Together (START) is an NGO I founded in 2001 in southwest England to provide practical placements for students on professional courses in Higher Education and at the same time to support refugees who are forcibly displaced to the city.⁷⁸ The organisation is underpinned by the strengths approach which looks for possibility in even the most difficult circumstances. It recognises that everyone's contribution is essential and that we should never limit our own or others' aspirations. The dual purposes of education and refugee support are always held in tension and contribute to the longevity of the organisation. 10

Staff numbers have varied over time between 3 to 8 depending on work and funding. A constant flow of students forms part of the team and at times, they outnumber the paid staff. Since 2001 more than 4,000 refugee households have accessed START's support and helped to train more than 300 professionals. Although many students are studying social work and occupational therapy, the organisation has provided learning for students of clinical psychology, medicine, dentistry, business administration, media studies, photography, geography, international relations and sociology. Countries of origin and study have included Germany, France, Switzerland, Ukraine, Norway, Netherlands and Czech Republic. In addition to the contracts START delivers, it has brought over 1.3 million GDP to the city from foundations and other bodies. Its work was recognised by the NHS Social Care Award in 2005, the SWAP learning and Teaching Award in 2011, the Social Care Institute for Excellence's 'Good Practice with refugees' publication in 2015, shortlisted for the Good Help Award in 2018 and invited to Brussels to receive the European Citizen's Award in 2017, an award given to "citizens, groups or organisations who have displayed exceptional achievements and commitment to areas promoting stronger integration, cultural cooperation and links to the European spirit".11

One of the key elements in START's success has been the ability to attract and work with students from other European countries whose courage in taking on an international placement enriches the individual, the team they work alongside and the refugees with whom they work and learn. As the professional supervisor for international students, I often explain to them that their perspective as a foreign national allows them to ask questions that a UK student would be expected to know the answer to. They can work alongside refugees as committed advocates and learn to be critical of the way law and policy affects individuals.

⁶ Maugham, J., Bringing Down Goliath, London, W. H. Allen, 2023.

⁷ Butler, A., 'A strengths approach to building futures: Students and refugees together', Community Development Journal, 40(2): 147–57.

⁸ Butler, A. (2007) 'Students and refugees together: Towards a model of student practice learning as service provision', Social Work Education, 2005. 26(3): 233-46.

⁹ Bellinger, A. and Ford, D., The Strengths Approach in Practice: How it changes lives., Bristol, Policy Press, 2022.

¹⁰ Bellinger, A. and Testa, D., 'Student-led services', in A. Bellinger and D. Ford (eds) Practice Placement in Social Work: Innovative Approaches for Effective Teaching and Learning, Bristol: Policy Press, 2016. pp 5–19.

¹¹Parliament honours winners of 2017 European Citizen's Prize,

https://www.europarl.europa.eu/topics/en/article/20171009STO85664/parliament-honours-winners-of-2017-europeancitizen-s-prize [L. s. 04.03.2024].

3. Legal, policy and practical challenges

3.1. Taking back control

Having set the scene for the NGO, I now return to an examination of the use of law for political ends. Throughout the confusion and uncertainty that followed the decision to act on the referendum result, one theme emerged consistently - that of the UK taking back control of its borders. Migration had already become highly politicised¹², ¹³, ¹⁴ but reducing inward net migration became emblematic of the UK's new status. The House of Commons library records that, on the 4th of December 2023, the then Home Secretary told parliament that 'Ministers believe that immigration is "far too high". ¹⁵ Net migration, calculated as the number of immigrants minus the number of emigrants, was previously estimated to be 745,000 in the last 12 months ending on 31 December 2022. This expressed belief is in spite of an ageing population and serious shortages of people in industries such as agriculture, health and social care. ¹⁶, ¹⁷, ¹⁸

3.2. The functions of law

We have written previously about the profligacy of the UK government in seeking unsuccessfully to stem the flow of migration¹⁹ as a sign of national sovereignty and control. Here I want to focus on the use of law and policy in service of this narrative.

The functions of law have been identified by UK scholars as: "the regulation of power structures; social engineering; shaping attitudes and behaviours; promoting ideology; and finding solutions to social problems". After the referendum, the lack of agreement about what leaving the European Union meant, produced an intractable problem for the then prime minister in that the UK parliament refused to accept any proposal that could form the basis of a negotiated settlement. As already mentioned, Boris Johnson took the unprecedented step of illegally proroguing (or suspending) parliament to 'get Brexit done' by passing the deadline for a negotiated exit outside parliament's control. In a use of the law to 'regulate power structures' a case was brought and won, on behalf of the public. This held Johnson to account and ensured the participation of the democratically elected representatives in the terms of leaving the EU. The Good Law Project continues to use the law to protect human rights in diverse areas such as environmental protection, corruption, and data management. It is a not-for-profit company primarily funded by members of the public who are consulted about which campaigns are pursued.

¹² Huysmans, J. and Buonfino, A., Politics of exception and unease: Immigration, asylum and terrorism in parliamentary debates in the UK. Political studies, 56(4), pp.766-788.issue. Handbook on migration and security, 2008. pp.273-295.

¹³ Gattinara, P.C. and Morales, L., The politicization and securitization of migration in Western Europe: Public opinion, political parties and the immigration issue, Handbook on Migration Security. 2017. 273-295.

¹⁴ Temizisler, S., Meyer, T. and Shahin, J., Politicisation of migration issues during the refugee crisis in the UK and Denmark. Journal of Contemporary European Studies, 2023. 31(3), pp.735-753.

¹⁵ Hansard, 2023. https://hansard.parliament.uk/commons/2023-12-04/debates/921A08A2-F615-48F2-8C56-423A29556F9F/LegalMigration [L. s. 04.03.2024].

¹⁶ Plummer, R., Where have all the UK workers gone? BBC News, 11.6.2021. https://www.bbc.co.uk/news/business-57400560 [L. s. 04.03.2024].

¹⁷ CQC, The State of Care: Workforce Report, Care Quality Commission, 2021/2022, 2022. https://www.cqc.org.uk/publication/state-care-202122/workforce [L. s. 04.03.2024].

¹⁸ O'Carroll, L., Shortfall of 330,000 workers in UK due to Brexit, say thinktanks, The Guardian, 17th January 2023. https://www.theguardian.com/politics/2023/jan/17/shortfall-of-330000-workers-in-uk-due-to-brexit-say-thinktanks [L. s. 04.03.2024].

¹⁹ Bellinger, A and Ford, D., Solution or Problem: A Social Work View of UK Forced Migration Law and Policy, Vectors of Social Sciences, National University of Georgia, Tbilisi. 2023. https://vectors.ge/wp-content/uploads/2023/04/AVRIL-BELLINGER-DEIRDRE-FORD.pdf [L. s. 04.03.2024].

²⁰ Braye, S. and Preston-Shoot, M., Legal Literacy: Practice

Tool, Dartington: Research in Practice. 2016. https://www.researchinpractice.org.uk/adults/publications/2016/october/legal-literacy-practice-tool-2016/ [L. s. 04.03.2024].

²¹ Maugham, J., Bringing Down Goliath, London, W. H. Allen. 2023.

²² Good Law Project https://goodlawproject.org/. [L. s. 04.03.2024].

3.3. Illegal Migration Act (2023)

Here I focus on the Illegal Migration Act 2023 which has been widely condemned for breaching the European Convention on Human Rights²³ and thereby, as its name suggests, is itself an illegal act. Its impact last year has been one of shaping attitudes and behaviours - constructing people seeking asylum as unqualified for compassion or even as having human rights - purely based on their means of arrival in the country. Although presented as a solution for the social problem of people seeking asylum and expressed as an act of concern for the people risking their lives, there is no evidence that it acts as a deterrent to people smugglers or to forced migrants themselves. Instead, it promotes the ideology of 'strong leadership' and 'control of our borders' and allows government to further scapegoat people who seek safety in the UK. This has been further extended as criminal charges for manslaughter are being brought against individuals forced by the traffickers to steer the boats when people are drowned. By treating people seeking asylum as criminals, in the full knowledge that they had no choice, the government is engaged in social engineering.

Many of the provisions of the Illegal Migration Act 2023 have not yet been activated, in part because, since leaving the European Union, the UK has no removal agreements with any country except for Rwanda. You will be aware that no asylum seekers have yet been removed to Rwanda because the supreme court has judged it to be unsafe. To date the cost of this treaty with Rwanda is 290 million GDP and, by the government's own estimates, the cost of sending each person to Rwanda (169,000 GDP) would be significantly higher than the cost (106,000 GDP) of accommodating them in the UK.²⁴ Nonetheless, in response to the supreme court's ruling, the government took the extraordinary step of introducing The Safety of Rwanda (Asylum and Immigration) bill that states Rwanda is a safe place. This is being fiercely debated in parliament and will be contested through the courts again, a process that could take years. This attempt to use the law to find a solution to a social problem is unlikely to succeed. However, continuing to press for removals to Rwanda will maintain the symbolic political charge of migration in an election year. It is also an attempt to challenge the jurisdiction of the European Court of Human Rights.

3.4. Forced migration after Brexit

In the meantime, the number of people who arrived 'illegally' following Brexit increased substantially, in part because the Dublin agreement between the UK and Europe ended with Brexit. Delays in decision-making²⁵,²⁶ have resulted in rising pressure on the Home Office over the cost of providing accommodation for people waiting for a decision on their claim. In response to media-fuelled public anger, the government pledged to stop using hotels to accommodate people waiting for a decision by Christmas 2023.

Those people granted leave to remain are the lucky ones. People arriving after July 2023 are in legal 'limbo' and increasingly accommodated in prison-like conditions in barges like the Bibi Stockholm or isolated 'camps'. Conditions are such that Médecins Sans Frontières are working in England to protect people's mental health.²⁷

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²³ European Convention on Human Rights (1950) https://www.echr.coe.int/documents/d/echr/Convention_Instrument_ENG ²⁴ Syal, R., Mason, R. and Adu, A., Home Office ordered to give full cost of Rwanda deportation plan, The Guardian, 8.12.2023. https://www.theguardian.com/uk-news/2023/dec/08/sunak-didnt-mislead-mps-over-costs-of-rwanda-deportation-plan-says-no-10 [L. s. 04.03.2024].

²⁵ Casciani, D., What's Behind the Home Office Migrant Backlog? BBC News, 1st November 2022. https://www.bbc.co.uk/news/uk-63477371 [L. s. 04.03.2024].

²⁶ House of Commons, Delays to processing asylum claims in the UK, Research Briefing, House of Commons, 20th March 2023. https://commonslibrary.parliament.uk/research-briefings/cbp-9737/ [L. s. 04.03.2024].

²⁷ Abdelmoneim, J., Explainer: Why is MSF treating people seeking asylum in the UK? 10th January 2024. https://msf.org.uk/article/explainer-why-msf-treating-people-seeking-asylum-uk [L. s. 04.03.2024].

3.5. START's response

START's work begins as people receive a positive decision. Since September referrals have trebled as the Home Office try to clear space for the people living in hotels. People were previously given 28 days to vacate their asylum accommodation but in August 2023 this was reduced to 7 days, indeed some people's termination of support letters stated that the newly granted refugee should "make immediate arrangements to vacate the premises". Although subsequently rescinded, this sudden change of policy increased people's feelings of vulnerability and put pressure on services.

The housing crisis that has been deepening since before the pandemic means that services for homeless people are at capacity and that street homelessness is now a real possibility. For the first time in 22 years, workers at START are providing sleeping bags and phone contact for refugees forced into rough sleeping. Concerns about whether students would feel discouraged by having to work in such circumstances have not been realised. In contrast, international students, in particular, have been highly motivated to support people by the severity of their circumstances. Being confronted by the desperate situation that refugees are in, stimulates the compassion and human connection students feel towards fellow travellers. Although the students are privileged and at START by choice, they too have experienced some of the difficult consequences of the UK's repositioning as Global Britain.

4. Consequences of Brexit

4.1. Erasmus programme

One of the casualties of Brexit has been international student mobility which had previously been positively thriving. The University of Plymouth had an Erasmus exchange programme for more than 30 years. There was active staff and student mobility across disciplines of public health, law, and social work for example. International conferences, like the one we are enjoying now, were held regularly and there was a particularly memorable occasion in 2002 when a German social work student was working with a group of older adults in an impoverished part of the city and facilitated their attendance at and contribution to a conference about service user participation in her home university in Esslingen.

The Erasmus, now Erasmus plus programme, was set up in 1987 to support, "through lifelong learning, the educational, professional, and personal development of people in education, training, youth and sport, in Europe and beyond, thereby contributing to sustainable growth, quality jobs and social cohesion, to driving innovation and to strengthening European identity and active citizenship". 28 More than 12.5 million students have benefited from the programme and its extension beyond Europe through the Erasmus Mundus scheme. The funding for each renewal has increased and the budget for 2021-2027 is almost double that of the previous programme. From a UK perspective, more European students came to the UK as a study destination than UK students travelling to Europe. This is borne out by the START and University of Plymouth experience where a steady inward flow of international students was not matched to UK students gaining academic credit abroad. This was understandable for social work students in particular because of the very circumscribed requirements for their qualification. Arval and Nair argue that the imbalance between student numbers received and sent led the UK to believe it "was not reaping enough benefit from the Erasmus programme compared to other nations." If accurate, this conclusion shows a severely myopic understanding of benefit. It assumes that the students who are travelling (and their country of origin) accrue all the benefit. However, if we regard knowledge as something that is co-constructed rather than didactically transmitted, then the presence of international students can be appreciated as a stimulus and challenge to narrow xenophobic/colonial ways of thinking. As educators we are constantly learning with and from our students. International students bring the gift of questions from new perspectives.

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²⁸ Aryal, S.J. and Nair, J., 'The Post-Brexit Impact on the Student Exchange Mobility Programme' Journal of Globalization Studies, 2022. Vol. 13 No. 2, November 2022 76–84 DOI: 10.30884/jogs/2022.02.05.

Regrettably, the Trade and Cooperation Agreement²⁹ now precludes the UK from participation in Erasmus programmes.

4.2. Turing scheme

The Turing scheme, developed to replace Erasmus, is intended to promote international study for UK nationals without restricting them to destinations in Europe. It was designed to fund up to 38,000 participants in 2022-2023 with more generous allowances than Erasmus for travel. Although a promising opportunity for UK students it has not yet been realised as the actual numbers fell far short at 20,000.³⁰ At the end of its first year, 79% of universities reported difficulties with the application process. Late confirmation and payment, sometimes after the student had returned, led to drop-out, particularly for those from lower income families. The government's own analysis shows that it has failed to match the previous system even for UK students wanting to study abroad. Also, unlike the Erasmus scheme, the Turing Scheme does not include staff mobility.

For incoming international students, there are new obstacles to be overcome. Undertaking a practical placement is covered by different regulations from those that apply to students registering for academic study. A visitor visa allows people to do a maximum of 30 days volunteering and exceeding that renders them liable for deportation. Practical placements at START must be a minimum of 60 days to allow induction and learning to be enough to make the experience mutually beneficial. Thus, even though incoming students are undertaking certificated educational activities and receive no payment, they are treated as workers and so must have a work visa. The emphasis on controlling inward migration has produced complicated and challenging systems for this.

Over the past 3 years, the university has worked to find ways of ensuring that students wanting to study and take up practical placements in the UK can do so without breaching the immigration rules. To date, students from Germany, Norway and Switzerland have negotiated the obstacles and we look forward to hosting a student from the Netherlands shortly.

5. Lessons from the UK

I have illustrated the experience of voting to leave the European Union, a choice made without detail of what it meant beyond Theresa May's repeated assertion that 'Brexit means Brexit'. I would argue that it introduced a period of greater political insecurity for which no-one was prepared. Opinion polls now reveal that more than 50% of those who voted Leave, regret their action. 62% of people surveyed think Brexit is 'more of a failure' and only 9% that it is more of a success. Support to re-join the EU is more than 60% but most seriously, there has been an increase in cynicism and apathy. The referendum and its consequences have significantly undermined trust in politics as people understand that their interests are not represented through government actions.

In this period of dis-integration, control of inward migration has been constructed as a measure of government effectiveness, allowing the further dehumanising and scapegoating of people seeking asylum who arrive by irregular means.

I have shown how the law can be used in the service of such a narrative and, equally how it can be invoked to control power structures and preserve democracy. The micro-focus on START gives life to the potential for preserving human rights that exist in difficult times, and the importance of engaging students in practical emancipatory work.

As a social worker and academic activist, I am committed to the strengths approach - working with the current conditions without accepting that dis-integration is inevitable, looking for allies and staying open to possibility. I believe we can preserve democracy through non-hierarchical

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²⁹ Trade and Co-operation Agreement, 2020. https://commission.europa.eu/strategy-and-policy/relations-non-eu-countries/relations-united-kingdom/eu-uk-trade-and-cooperation-agreement en#free-trade-agreement [L. s. 04.03.2024].

³⁰ Weale, S., Post-Brexit student exchange scheme 'hit by funding delays' The Guardian, 4th January 2024 replacement-scheme-inadequate-analysis-finds.

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international relationships that preserve and promote human and environmental rights. Universities have a critical role here in that they provide an educational pathway to promote international learning, co-operation, and consensus. Our practice promotes active global citizenship for the professionals of the future.

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