Can Brexit Be Prevented?

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The HMS Britannia is sinking. Over two years since the June 2016 referendum to leave the European Union, less than a year before Brexit Day on 29 March 2019, there is no sense that the UK government has the slightest idea what it is doing. The atmosphere in Westminster is reminiscent of the moments of the country's great historic foreign policy blunders: a mixture of heady complacency among optimists and fear of inexorable slide into disaster among realists. Scrambling attempts to soften the impact of EU withdrawal have the air of rearranging deckchairs when the iceberg has already hit.

In amongst all the bluster of jingoistic press releases and ministerial statements containing no new content whatsoever, it is worth remembering that two important things have changed since the referendum. The first is that the pledges of the Leave campaign have been systematically ignored or withdrawn by the administration charged with delivering on that result, including by leading Brexiteers like David Davis and Boris Johnson. Despite the infamous big red bus, there is no firm commitment to redirect Britain's EU budget contribution to the National Health Service, even at a more accurate figure than the exaggerated £350 million (405 € million) per week. Despite a promise made by ministers only days before the vote there is no guarantee that the British government will maintain funding for existing EU programmes in the country, including those which, after eight years of austerity, are crucial props holding up some parts of the UK.

Perhaps most egregiously of all, despite building a campaign on the spectre of mass immigration from mainland Europe, there is no prospect of net inward migration reducing after Brexit. Indeed, while maintaining the xenophobic rhetoric for the benefit of the right-wing media, ministers have been at pains to assure big business that there will be no squeeze in labour supply that might lead to lower profits. It is hard to see those deterred by the idea of Poles and Romanians coming to live and work in Britain being happier with Arabs and Indians instead.

The second thing to have happened is that the ambition of those Brexiteers in government (if not those in Parliament or the media) has wilted considerably. Two years ago, Leave campaigners were confidently predicting an immediate end to membership of the single market and customs union and a tranche of new international trade deals within months of the referendum. As things now stand, the UK will officially leave the EU next March but only to enter a 21-month transition period, during which time it will remain within the jurisdiction of the European Court of Justice and citizens of the EU27 will retain the right to free movement. Meanwhile, not a single trade deal has progressed beyond pre-negotiation discussions between UK civil servants and their foreign counterparts. The great irony is that, in the moment of their apparent victory, the Brexiteers themselves have guaranteed a state of affairs they have complained about for decades but has never previously existed: the UK as a rule-taker in Europe, passively accepting decisions made by other countries in a Brussels meeting-room from which it has locked itself out.

Stephen Dorrell, who chairs the UK division of the European Movement, recently encapsulated the situation well when he asked 'what is the problem to which Brexit is the solution?' Even if one believes that Britain's sovereignty has been damaged by supranational law, that its EU budgetary contributions could be better spent by the national government, or that current immigration levels are harming the country, what was suspected by Remainers all along is now empirically clear for all to see: Brexit is not and will not help to resolve any of these issues. So, can the whole thing still be prevented, and if so, how?

There are now only two ways in which Britain can stay in the European club. The first would be for the EU institutions and the 27 Member States to receive a firm indication from the UK government, before March 2019, that the country wishes to cancel the entire Brexit process and remain indefinitely. Given that secession itself is uncharted territory for the Union, the criteria for such a reversal remain unclear. John Kerr, the former British diplomat who helped draft article 50 of the Lisbon Treaty, has argued that there is no legal obstacle to that same government unilaterally withdrawing its application to leave and re-establishing the *status quo ante*. It seems that Theresa May - or her successor as prime minister - could erase the last 14 months with nothing more than a second letter to Donald Tusk.

Of course, under these circumstances the law is virtually irrelevant next to politics. If there were legal issues with cancelling Brexit but a clear bilateral desire to do so, then the law could and would be changed as a matter of urgency. Conversely, if there was a legal pathway open but continued political opposition, then matters would be considerably more difficult.

On the EU side, opinion remains fairly open to the possibility of an end to the Brexit debacle. Apart from entirely justifiable complaints about British arrogance and time-wasting, the mood since June 2016 has generally been one of regret at the UK's decision to leave, either out of an emotional attachment to the European family or a pragmatic one to the country's economic and military power. Indeed, Emmanuel Macron held out hope to die-hard Remainers in January when he mentioned that France under his leadership would 'look with 'kindness' on a decision to reverse Brexit. Naturally, such a reversal would have to be undertaken with the utmost humility by the UK government, apologising to its negotiating counterparties for the events of the last few years and effectively committing to no future wobbles in certainty about its role in the European project. Depending on their magnanimity, the EU may choose that moment to demand the UK sacrifice its historical concessions - primarily its budget rebate and permanent opt-out from the single currency - as proof of its good intentions.

This means that EU willingness to countenance an end to Brexit will largely depend on the balance of opinion on the British side. Any attempt to challenge the 'will of the people' as expressed in the referendum result would be met by outrage and possibly violence from a hardcore of Leave supporters, amplified by a largely Eurosceptic media that continues to see itself as the victim of an elite pro-European conspiracy. Beyond this group, there is a much wider proportion of the public who may have voted either way in the referendum but currently still see Brexit as a necessary outcome of the democratic process. Whatever misgivings policymakers may already have, this bulk of moderate opinion will need to visibly shift over the coming months to give them the cover to take on the pro-Brexit fundamentalists - and win.

With this in mind, last month an alliance of pro-Remain groups launched a new People's Vote campaign to demand another referendum on the final Brexit deal that the UK government and EU will (presumably) strike before March 2019. The argument is an inversion of the Leave campaign's own rhetoric: while the public originally voted for Brexit, as things stand only parliamentarians will be able to vote down the final deal. These groups now want the final vote to be reopened to the whole electorate, who would be able to either signal support for the government's plan or reject the deal.

To its credit, this campaign may help deepen the sense that Brexit is not inevitable, even in legal terms: the UK's unwritten constitution makes no provision for referenda, and the 2016 one holds only a non-binding advisory status. Nevertheless, it raises as many questions as it answers. What would a No vote in another referendum mean for the withdrawal process? Would the government then be obliged to revoke its article 50 notification entirely, or to return to the negotiating table and attempt to extract better conditions from its counterparty? If the latter, what incentive would the EU have to change its position, rather than adopt a 'take it or leave it' stance? Would there even be time for a renegotiation before Brexit Day, and so might this inadvertently lead to the Remainers' worst nightmare, Britain crashing out of the EU with no deal at all? Under the circumstances, another referendum before March would have to pose the choice between accepting whatever deal the government returns from Brussels with and cancelling Brexit outright. Given that very stark dichotomy, the result may well be the same as last time round.

This brings us to the second way in which Britain could 'remain' in the EU: by first leaving and then reapplying for membership. Naturally, many of the same constraints would apply to this course of action as to trying to reverse the process before Brexit Day. A newly contrite Britain seeking to join the EU for the second time would almost certainly have to seek membership on the same terms as existing countries with no concessions in sight, even if a fast-track application process could be agreed for former Member States. However, the key difference may lie in the effect of a period of non-membership on British public opinion. Suffering an economic slump that outstrips the wealth 'lost' via its former EU budget contributions, subject to an international policy climate shaped by other countries, and with immigration as high as it has ever been, the Brits might eventually conclude that they were better off with a seat at the table in Brussels after all.

Even more than this, however, the depressing truth may be that Brexit is a necessary process in order for the UK to shed its last vestiges of imperial chauvinism. For many leading political figures of the post-war era the European project promised to be Britain's deliverance from the humiliating loss of empire, a new prestigious role at the heart of the Western alliance. In this respect, EU membership has worked too well. The UK has never fully lost its sense of itself as a great nation bestriding the world, and indeed it is this latent imperialist ideology that has inspired Right-wing Eurosceptics ever since the 1970s. If Brexit does happen, with all its disastrous impact on the country, it is the one thing sure to finally kill the idea of the British Empire.

It would be a wonderful thing if the Brits could swallow their pride and admit Brexit is a mistake *before* March next year. Europe is not short of other problems that need solving, and it could use the active participation of a state which, at least while it remains embedded in the Union,

is an economic and military power. However, it may well be that this is too much to ask. It will then fall to younger generations, having suffered from their elders' bone-headed intransigence, to undo the damage and return their country to its rightful place inside the EU. And in some sense, has that not always been the story of the European project?