SPECIAL ISSUE ARTICLE

Taking Back Control as Democratic Theory

Albert Weale

University College London, London, UK

Correspondence
Albert Weale, University College London, London, UK.
Email: a.weale@ucl.ac.uk

Abstract

The slogan 'take back control' was central to Brexit. The conception of democracy this slogan embodies is the traditional Westminster model. It is a model in the sense that it is supposed to provide a simplified characterisation of the operative principles of UK politics and government, although practice in fact diverges from those principles. It is also a model in the sense that the Westminster system is seen by those favouring Brexit as an ideal to which practice needs to be restored. The model can be associated with a corresponding conception of democracies in the international order. However, there are both functional and democratic disadvantages with that account of democracy and the international order, disadvantages that the development of the EU highlights. Two alternative models of democracy beyond the nation state are identified, before concluding that the Westminster model has a past but not a future.

1 | INTRODUCTION

If there is one slogan that was central to the Brexit campaign, it was 'take back control'. It is tempting to dismiss this as a meaningless piece of rhetoric, on a par with the claim that £350 million a week could be redirected from the UK's contribution to the EU's budget to the National Health Service, or that there would be no downsides to Brexit, or that the United Kingdom could leave the EU while retaining the exact same benefits. Yet, take back control warrants more than mere dismissal. It highlights the way in which the campaign for Brexit depended on mobilising a political movement behind a particular conception of democracy. It also points to a central dilemma of European integration, namely, how to reconcile national democracy with supranational authority.

The idea of taking back control has rhetorical and argumentative force because, in democratic theory, there is a close conceptual connection between popular control and the idea of democracy. For example, in a well-known discussion, Beetham (1999, pp. 4–5) defines democracy in terms of popular control and political equality. In making collective decisions, Beetham argues, an association is democratic to the extent that it is subject to control by all the relevant members of the association. Dahl insisted that, in a democracy, final control on the decision-making agenda should rest with all members of the association treated as equals (Dahl, 1998, pp. 38–40). On these definitions, take back control is the vernacular expression of a democratic revolt against the ever-closer union of the EU, a union built on a system of supranational authority.

The term 'popular' in 'popular control' may be contrasted with two ideas. The first is elite control. This is the sense often used in republican discussions of democracy (Bellamy, 2007, 2019; Pettit, 2012), because modern republican theory inherits a tradition of political thought in which legitimate constitutions ensure a share of power to the people. The second contrast is with the idea of alien control. Popular control means that it is the people of a nation who should have decision-making power. This is the sense of popular control that is used in discussions of decolonisation or secession, in which the creation of a polity under popular control requires

that polity be established independently of any larger unit. This is why nations need to become states (Taylor, 1993, chapter 3). The Brexit campaign combined these two senses of popular control, fusing them in a narrative in which the 'people' had been betrayed by a domestic elite, as exemplified for example in the 2009 MPs' expenses scandal, which rocked Westminster. Similarly, it was argued that the British people were subject to alien control through regulations and directives made by unaccountable bureaucrats within the EU, buttressed by the sense that the UK contributed disproportionately to the EU's budget. Brexit thus linked the idea of popular sovereignty in both senses—rule by the people rather than a domestic elite, and rule by the British people rather than by a foreign elite.

Remainers pointed to the limited value of sovereignty in an interconnected world. What does popular sovereignty really mean in a world in which goods, services, money, and capital flow across borders, and in which, for example, a great deal of government debt is held by foreign investors who can withdraw their funds at any time? In the UK, the experience of post-war shortages of sterling reserves, the devaluation of the pound in 1949 and 1967, and the bailout by the International Monetary Fund in 1976 exemplify the limits of power that a national government can exercise. On this account, Brexit is the refusal to acknowledge the limited capacity of a post-imperial UK, confusing a claim to sovereignty with the retention of real power to act (for an excellent recent account, see Stephens, 2021).

As David Held pointed out, international interdependence highlights a central problem in democratic theory. Democracies were established based on a prior process of nation building. However, globalisation means overlapping 'spheres of influence, interference, and interest create dilemmas at the centre of democratic thought' (Held, 1998, p. 22). The question is how to conceive of democracy in this new context, and how democracy can be rethought given global interconnectedness. Brexit did not so much resolve the tension between established conceptions of democracy and increasing international interdependence, as simply assert the claims of democratic nationalism against supranational governance, refusing to see the latter as an ineluctable development.

In the remainder of this paper, I lay out the conception of democracy that is associated with Brexit, which I refer to as the traditional Westminster model. It is a model both in the sense that it is supposed to provide a simplified characterisation of the operative principles of UK politics and government, and in the sense that it is seen as an ideal from which practice may depart, but to which practice needs to be restored. I then note how this conception of democracy has a corresponding account of authority in the international order, before going on to identify the functional and democratic disadvantages associated with that account. I conclude by identifying the implications of thinking about democracy beyond the nation state, and suggest that the Westminster model has a past but not a future. But I begin by considering the logic of different positions in the debate that is concerned with the relationship between democracy and supranational authority.

2 | DEMOCRACY AND SUPRANATIONAL AUTHORITY

The debate on the relationship between democracy and supranational authority can be defined by reference to four propositions (cf. Weale, 2007, p. 230), as follows:

1. Serious policy problems are increasingly cross-boundary and international in scope;
2. Legitimate supranational authority is needed to deal with these problems;
3. Supranational governmental authority cannot be democratic;
4. Only democratic governmental authority is legitimate.

Each of these propositions on its own seems plausible, but they form an inconsistent quartet. Only three taken together can be true. Different positions in the debate on democracy and the international order can be defined by reference to which proposition is denied. Assuming that few people would deny (1), we then have three options.

Some people deny (4). Denying (4) detaches legitimate international government from the requirement to be democratic. Proponents of this position agree that cross-boundary problems require international legitimate authority, but they also think that such authority does not need to be democratic. For some organisations, such as the International Postal Union or the World Meteorological Organization, the remit of which is essentially technical, authority may not need to be democratic. In these cases, authority derives from the need of states to coordinate to the same standards, but there are no, or few, conflicts of interest involved. For such limited purposes, legitimacy does not require democracy (cf. Held, 1995a, p. 109). However, as Held also points out, an argument of this type cannot be generalised across all international organisations, in particular those in which conflicts of interest, notably economic or security interests, are integral. It would certainly not extend to systems of supranational authority, such as the EU, in which the scope and significance of authoritative decision-making has direct effect on the lives and wellbeing of national populations.

Proponents of cosmopolitan or transnational democracy, like Held himself, deny (3). This position accepts that the only legitimate form of authority, outside purely technical organisations, is democratic. However,

it denies that this implies that supranational organisations cannot be democratic and so legitimate. Although democracy is historically associated with the nation state, the design of democratic institutions must not be restricted to it. Just as democracy in the city state preceded democracy in the nation state, so democracy in the nation state can be the forerunner of democracy at the supranational level. In particular, although the exercise of political and policymaking power in existing international organisations requires justification through some system of accountability to be legitimate, that does not imply that there is no institutional or organisational form at the supranational level that can meet that condition. Accountability is central to any conception of democracy, the argument runs, so it is imperative to democratise international organisations to institutionalise the accountability that they currently lack.

Proponents of Brexit break the deadlock of propositions another way, by denying (2). They accept that there are some problems that are international in scope, but deny that bodies with supranational political authority are required to deal with such problems. Interstate agreements will be needed to create international regimes for the governance of shared public goods, but such regimes depend for their authority on the legitimacy of the states creating the regime. International agreements inherently impose strict limits on the authority of international organisations, which cannot have anything like the authority of governments. Only governments subject to popular control can be democratic, and popular control presupposes a sense of peoplehood and nationhood. In consequence, no supranational organisation can be democratic. To understand this Brexit position, it is essential to see that its account of the international order is conceptually connected with its account of domestic democracy. The domestic taking back of control has a counterpart in a view of the ideal international order. To understand that connection, we need to identify the key salient features of the Westminster model.

3 | THE WESTMINSTER MODEL

The traditional Westminster model is, in principle, simple (cf. King, 2007, chapter 3). Governments are accountable to the people through elections. In every constituency, those eligible to vote cast their ballot for one and only one candidate, and the candidate with the largest number of votes, seldom an absolute majority, is elected as a Member of Parliament. The first past the post voting system normally ensures that a single party can form the government, translating a plurality of the popular vote for the winning party into a majority in the House of Commons. The exercise of party discipline within parliamentary parties usually enables the government of the day to carry the essential elements of its programme. The House of Lords, as the second chamber, has the powers of a suspensory veto, but will not prevent a government from legislating in order to secure a measure promised in its manifesto, and so the Lords does not act as a counterweight to the exercise of governmental authority. The monarch by convention always assents to the legislation of the government.

If this is the model, what are its basic normative principles and values?

First, the core value of this model is accountability, understood in terms of electoral accountability. If the task of governments is to govern, the task of the electors is to make a judgement as to how well the government has performed, and, in the light of that information, to make a further judgement as to whether the party in government should continue or be replaced by an alternative. Because the electoral system tends to produce single party governments, voters should not find it hard to make an acceptable judgement on performance. Certainly, a judgement on performance should be easier than it would be in a multiparty government. Democracy, it might be said, is electoral accountability exercised through the prospect of a governing party losing office.

Second, accountability is to an electorate making up the people treated as one single body. Traditionally, there has been a modification of this principle in the unequal size of parliamentary constituencies, with some relatively sparsely represented constituencies being 'over-represented' and with some respect for natural boundaries like rivers in the drawing of constituency boundaries. However, the government is conceived as being accountable to the people thought of as a whole. In the Brexit referendum, the force of this assumption was seen in the way in which the results were interpreted both by the government and by the opposition. Despite the fact that Scotland voted to remain by a majority of nearly two to one, the principle adopted was that the government's duty was to reflect the result of the UK population as a whole.

Third, although Parliament is formally sovereign in the UK constitution, and this principle was reaffirmed in the *Miller* case ('R [Miller] v Secretary of State for Exiting the European Union', 2017), party discipline in the Commons means that a government sees itself as mandated directly by the people. Because MPs are almost always elected by virtue of their party label, the primary task of those who belong to the winning party is to support the government's programme. When Theresa May, on becoming Prime Minister, famously asserted that 'leave means leave', she was asserting the referendum as a mandate from the people to the government. When she went on to say in October 2016 at the Conservative Party conference that those who argued that initiating the process for leaving the EU could only happen after agreement in both Houses of Parliament were not standing up for

democracy but trying to subvert it, she was relying upon this interpretation of the relationship between government and people. This is not to say that she was right in her assertion. The *Miller* case demonstrated otherwise. However, it was symptomatic of a certain operative ideal of democracy.

Fourth, the Westminster model of democracy makes no distinction between ordinary law and constitutional law. It is sometimes said that the UK does not have a constitution. If by 'constitution' is meant a single document, like the US Constitution or Germany's Basic Law, containing fundamental legal provisions both for the functioning of government and for the rights of citizens, then the claim is true. However, if by 'constitution' we mean a set of rules and legal requirements for government together with certain agreed conventions, then the UK does have a constitution, though it is spread across many documents[1]. What is true, however, is that the UK constitution is flexible and can be easily changed by act of Parliament. There are no entrenched powers held by different bodies and no countermajoritarian procedures that need to be surmounted to effect constitutional change. Popular control means that a government with a majority in Parliament can legislate to bring about radical change.

It should come as no surprise that an adherent of the traditional Westminster model would conclude that the EU, as a supranational body, can never be a democratic institution. EU governance is necessarily multilevel, both legally and politically. Decision-making is not concentrated in one sovereign body accountable to the people at election time, but is dispersed across a complex set of decision points. Voting in the European Parliament may be along party lines, but there is no European party system that ties candidates to the electorate. Moreover, the EU is not an organisation devoted to a small and limited set of functions. It is a multifunctional organisation the competences of which have grown under pressure of the jurisprudence of courts, both national and European, as well as successive treaty changes and executive decisions forged in crisis. If the standards of legitimacy in the EU need to conform to the standards of the Westminster model, then the EU can never be legitimate.

This Westminster conception of democracy figured extensively, both implicitly and explicitly, in the Commons second reading debate on the EU Referendum Bill in 2015. At the beginning of that debate, the dialectic of national democracy and supranational authority was played out between Philip Hammond, then Foreign Secretary responsible for introducing the bill, and Kenneth Clarke, a long-term supporter of the UK's membership of the EU. Hammond opened with the argument that a referendum was needed to secure democratic legitimacy for the UK's continued membership of the EU, a thoroughly different organisation from the one that the UK joined in 1973. Instead of membership

of an economic community, the EU was in the process of creating a supranational political community:

> It is almost four decades ago to the day that I, along with millions of others in Britain, cast my vote in favour of our membership of the European Communities, and like millions of others I believed then that I was voting for an economic community that would bring significant economic benefits to Britain, but without undermining our national sovereignty. I do not remember anyone saying anything about ever-closer union or a single currency. But the institution that the clear majority of the British people voted to join has changed almost beyond recognition in the decades since then.
>   (HC Deb, 9 June 2015, col. 1047)

The recollection of the 1975 referendum was immediately contested by Kenneth Clarke:

> There must have been some strange juxtapositions in the campaign held in the 1970s, in which I took a very active part. Most of the debates I took part in were about the pooling of sovereignty and the direct applicability of European legislation without parliamentary intervention, which was a very controversial subject, and, besides, ever-closer union was in the treaty to which we were acceding.
>   (HC Deb, 9 June 2015, col 1048)

However, the clearest expression of why the traditional Westminster model of democracy implied Brexit was given by John Redwood, who, in a characteristically clear way, expressed the argument put by other leading proponents of Brexit:

> Before we joined the European Economic Community, the sovereignty of the British people was clear and it worked well. The British people could elect a Parliament. The Parliament was sovereign until it had to face re-election. That meant that the Parliament was responsive to the British people between elections because those elected recognised that if they did not please, did not serve well—if the chosen Government did not govern wisely—they would be thrown out by the British people at the end of the five years. So the sovereignty of the British people required a sovereign Parliament that they could dismiss and they could influence, and much of the architecture of this building and the political

architecture of our country was based on maximising the access to MPs and maximising the influence of MPs over the wider Government.

(HC Deb, 9 June 2015, col. 1099)

Note in particular the conflation of Parliament and government in this quotation. Similar appeals were made by other Conservative MPs supporting Brexit, including Sir Bill Cash and Dr Liam Fox, both in the second reading debate and in the campaign. However, it was a line of argument that was not restricted to the Conservative side. It was used by Brexit-supporting Labour MPs, such as Kate Hoey and Gisela Stuart, just as it had been used over the years by Austin Mitchell and Tony Benn. Outside the ranks of MPs, Labour supporters of Brexit such as Richard Tuck (2016) made the left case in large part turn on the flexibility of the British constitution, which allowed a majority party to introduce radical left-wing change, as had been achieved by the Attlee government's creation of the National Health Service in the 1940s.

The pressure for Brexit was in part a consequence of a contingent set of circumstances that flowed together. These included the domestic aftermath of the global financial crisis leading to tight public expenditure settlements, popular disgust at financial scandals in Parliament, the willingness of the Blair government, by contrast with the French and German governments, to allow full migration from the accession countries of eastern Europe in 2004, and the refugee crisis arising in particular from the war in Syria (see Clarke et al., 2017; Evans & Menon, 2017). However, the 'undemocratic' nature of the EU according to the traditional Westminster model provided a reservoir of rhetoric and argument around which discontent could be mobilised. Take back control sounds like taking back the popular control that is at the heart of democratic government. Yet, it is only such if the Westminster model is internally coherent and a paradigmatic model of democracy. It is neither.

4 | EVALUATING THE WESTMINSTER MODEL

The Westminster model is just that: a model. It is part abstraction based on the principles that are operative in the UK political system and part ideal, an account of how the UK should be governed even if practice sometimes departs from principle. As an abstract model of how the system works, it is accurate in some respects, but wildly inaccurate in others. As King (2007) documented, constitutional reforms in the past 50 years or so have led to a number of significant departures in practice from the traditional Westminster model. It has come under pressure from above and from below. Even without membership of the EU, these departures are large enough and significant enough to create anomalies and incoherencies that undermine the interpretation that the UK constitution is conforming to the Westminster model.

From above, the principal pressure on that model came from membership of the European Communities, as the EU was in 1973, involving the ceding of certain powers to a supranational authority. By 1973, the principles of the supremacy and direct application of European law over domestic law had been established by the European Court of Justice (ECJ) and accepted by domestic courts. Moreover, the jurisprudence of the ECJ was teleological in its determination of the competences of the EU, which allowed the Council unanimously to act as though it had powers not granted by the Treaty of Rome, if they were necessary to achieve the goals of the single market. It was in this way that the EU acquired powers of environmental legislation in the early 1970s, despite such competences not being mentioned in the Treaty of Rome (Weale et al., 2000, pp. 2–5). Membership also meant that the UK ceded trade policy competences to the EU, as well as accepting the policies associated with the Common Fisheries Policy and the Common Agricultural Policy.

Membership of the European Communities also prompted one of the most consequential changes in domestic political decision-making: the use of a referendum to determine continued membership in 1975. Apart from the referendum on Scottish devolution in 1978, referendums were not used again until the 1997 Blair government's reform on devolution and Northern Ireland. However, they raised a fundamental issue that called into question one of the central principles of the traditional Westminster system, which had been based on the principle of parliamentary sovereignty. Opinion is divided as to how to interpret the use of referendums, with one school of thought holding that they signify a shift in the locus of authority from Parliament to the people, and another holding they are a way by which Parliament delegates its authority over a particular issue. Either way, the use of the referendum, and in particular the increase in points of political pressure that the continuing prospect of a referendum can have on parties aspiring to power, means that the possibility of a referendum on an issue disrupts the relationship between government and the electorate as presupposed in the traditional Westminster system.

If membership of the EU prompted change from above in the UK constitution, devolution to Wales and Scotland prompted change from below, the case of Scotland being particularly important in the Brexit debate. Any direct relationship between the UK government and the whole of the people in the UK depends on there being something like a uniform party system within which political competition is conducted. (It is worth remembering that, in the 1955 election, the Conservatives held a majority of Scottish constituencies). However,

even before devolution to Scotland and certainly since it, Scotland's party system has diverged from that in England. The result is that the idea that the 'British people' could mandate the government of the UK to a particular course of action becomes less plausible. The growth of the idea of the 'home nations', which is now widely taken for granted in talking about the constituent countries of the UK, suggests that the UK is now regarded as a multinational polity made up not of one 'people' but of different peoples. It is therefore not surprising that Scottish political representatives have put the case for the principle of concurrent majorities of the constituent nations in respect of Brexit, rather than a single simple majority of UK citizens as a whole.

Northern Ireland has always been an exception to the principles of the Westminster model, which is why it has been a longstanding blind spot for constitutional traditionalists, including Brexiteers, and why its status was hardly mentioned in the referendum campaign in the rest of the UK. The party system in Northern Ireland has always been distinctive, reflecting political cleavages founded on issues of nationality intermixed with sectarian differences—rather than issues of taxation, economics, and public services. For decades, these differences seldom mattered in the UK Parliament, because nationalist politicians did not take their seats and unionists were too small a grouping to be pivotal in the making or breaking of governments. However, with Brexit, the distinctive features of Northern Irish politics did come to matter. The Democratic Unionist Party was pivotal in sustaining Theresa May's government in power after it lost its majority in the June 2017 election. Subsequently, the status of Northern Ireland presented one of the thorniest issues in the UK–EU withdrawal agreement.

Because the Westminster model is part ideal, these growing departures from its operative assumptions over the past 50 years can be accepted as fact, but then treated as a political challenge to be reversed or reformed. This was essentially the case that John Redwood and other supporters of Brexit argued in respect of the pressures from above. It was because membership of the EU undercut the traditional Westminster model that the UK needed to withdraw from the EU. In the same mode, Boris Johnson as Prime Minister described the pressures from below in the form of devolution to Scotland as a disaster to his backbenchers (BBC News, 2020), a view that was consistent with the sidelining of the devolved administrations in the withdrawal negotiations. Subsequent legislation in the UK 2020 Internal Market Act revealed a UK government trying to take back control of various functions, as does the desire of the government to bypass the devolved administrations in the allocation of public funding for investment.

There is an interesting question of political ontology lurking in the divergence between the practice of the constitution, which departs from the Westminster model in crucial respects, and the way in which UK democracy is described by leading politicians. How does one characterise a system where the expressed view of elected public officials about the locus and extent of authority within a political system diverges from its prevailing operative principles? Consider, for example, the following model of political legitimacy. A necessary condition for political legitimacy in a system of government is that key public officials, including the elected officials, recognise the authority of the secondary rules of the system, where the secondary rules are the rules for making the primary rules that constitute law and policy (Hart, 2012, chapter V). Of course, political pluralism means that the same elected public officials will disagree as to what law and policy, and so those primary rules, should be. However, they will be agreed on the secondary rules for changing the primary rules. Yet, in the wake of Brexit, elected officials at different levels of political organisation, notably between the UK and Scottish governments, disagree about what secondary rules are or should be in place. Once secondary rules become the subject of deep contention, as they have done as a result of Brexit, then the secure basis of political legitimacy is lost. If take back control was originally conceived of in terms of removing the EU from its place in the secondary rules of law making, but leaving everything else as it was before, it has come to mean reasserting contested political control over Scotland to the detriment of consensus on those secondary rules.

5 | INTERGOVERNMENTAL VERSUS SUPRANATIONAL AUTHORITY

So far, I have laid out the principles of the Westminster model as they define the domestic practice of democracy. But what are the implications of this model in relation to the international order? I suggested that those favouring Brexit denied proposition (2), asserting that supranational authority cannot be democratic. However, that does not mean that they also deny (1), that serious policy problems are increasingly international in scope. What they hold is that the right way to deal with these problems is through intergovernmental agreements within functionally specific regimes. In this view, the international order is made up of separate countries who can freely negotiate with each other to their mutual advantage. There has to be a dispute resolution mechanism, like that in the World Trade Organization, when agreements are broken by one side or the other, but such a remedial adjudicative mechanism is not the same as an overarching supranational political authority that determines a common set of standards.

How does the slogan take back control comport with this view of the international order? National

control in an international regime of free trade simply means that a country can make its own decisions as to which other countries it strikes agreements with. It has to decide for itself which agreements are advantageous, and which are disadvantageous. Outside trade concerns, states would also be free to enter into agreements with each other to establish regimes to lay down agreed rules of behaviour to mutual advantage. For example, there will be a need to create regimes of rules regarding pollution control, particularly of a cross-boundary kind. However, a democracy that participates in an international regime is not conceding any part of sovereignty to a supranational authority. It may be subject to adjudication and even some penalty, but so long as that is part of an agreement to long-run mutual advantage, and provided also that it can withdraw from the regime, this does not mark any breach with the principle of sovereignty.

Some people urge that there is a confusion of sovereignty and power in this view (Stephens, 2021). Sovereign countries may have the right to enter or refuse to enter international agreements, but for a medium sized country like the UK, there is little leverage in international affairs in a world of large states, such as the USA, China, and in future, India. Sovereignty does not imply power, and the exercise of power may require the pooling of sovereignty. However, the proponent of Brexit can reply by distinguishing between sovereignty and the value of sovereignty. If sovereignty has value in itself, then its maintenance is not solely conditional on the consequences that it produces. Taking back control does not mean that a nation can achieve all that it wants. What it can achieve depends on the circumstances and opportunities that it confronts. Control does not mean defining those circumstances and opportunities; countries merely confront them. However, so the argument goes, in confronting those circumstances and opportunities, what is important is that the democratic state does so with reference to its own domestic constituency.

Unlike the domestic departures from the Westminster model, these international implications are not internally incoherent. However, they do suggest a deficiency in thinking about the international order in general and the EU in particular. Consider the following thought experiment. Suppose that the European project launched by Monnet and Schuman had failed, just as former projects of European integration had failed. It is implausible to suppose that there would be no or few international agreements and regimes within Europe. Instead, there would be a proliferation of issue-specific multilateral agreements and regimes, each involving different countries and together covering such issues as trade, product standards, phytosanitary standards, taxation, the movement of people, security cooperation, investment, transport, pollution control, the recognition of qualifications, the regulation of information networks, and so on. International regimes would have abounded in Europe.

There are two types of disadvantage that can be associated with a multiple-regime Europe. The first disadvantage arises from the fact that the international agreements and regimes would have been functionally specific. In consequence, there would be little or no capacity to make adjustments in one regime, contingent on adjustments in another. The 'grand bargains' that have characterised the development of the EU would not have been possible. Consider, for example, the development of the single market programme and environmental policy in the 1980s. The higher income countries wanted the development of strong environmental product and production standards but did not want to pay for structural funds. The lower income countries wanted the structural funds, but not the stronger product and production standards. The log roll behind the grand bargain was to have both the environmental standards and the structural funds (Weale et al., 2000, pp. 42–46). Similarly, when it came to the creation of the single currency, the willingness of German policymakers to agree to the project was conditional on other countries accepting stringent terms for the management of their public finances, first through the convergence criteria and then through the Stability and Growth Pact. These grand bargains enabled the EU to achieve a higher level of public goods than would have been achieved by a set of functionally specific regimes.

The proponent of the Westminster theory of international agreements might concede this point but still insist that the preservation of as much national democratic autonomy as possible would be worth the sacrifice of some European public goods. However, this leads to the second, distinctively democratic, disadvantage of the multiple-regime arrangement, namely the virtual impossibility of ensuring domestic democratic accountability in the operation of these different regimes. The problems of the democratic disconnect (Lindseth, 2010) that have been identified in the EU—in which supranational decision-making is not sufficiently tied to the scrutiny of the domestic parliaments—would be multiplied, because the different regimes would have comprised different member states, different organisational structures, different procedures of policymaking, and different legal obligations, all of which would have strained the attention span of any one of the parliaments in the member states, thus making accountability impossible.

Moreover, the Westminster view of the international order suffers from one large and obvious defect—it takes more than one to tango. It is one thing to have a perfectly coherent account of the international order and the principles that it should embody. It is another thing to adhere to that account if others required to participate in the envisaged order do not share the vision, particularly when those others form one's largest

trading partners, and when the bloc they form has integrated supply chains upon which one's own industry and commerce depend. This Brexit view of international trade sits well with a broadly individualistic and free market orientation, as Sidgwick (1891, p. 230) pointed out many years ago. Sidgwick suggested that an international order that respects territorial integrity and the equality of states in the internal system was the analogue to a liberal minimal state domestic order. In a domestic free market, individuals transact with each other to their mutual advantage on generally agreed terms; in the international order of trade, nations make agreements with each other to their mutual advantage. However, just as there are public purposes that can only be pursued by going beyond a minimal state in the domestic order, so there are common international purposes that can only be pursued by going beyond an order of interstate agreement to one in which there is some element of supranational authority. The question is: what should that authority look like?

6 | CONCLUSION: DEMOCRACY IN A SUPRANATIONAL ORDER

The argument I have been pursuing so far can be stated as follows. The campaigning slogan take back control could tap into a widely held conception of democracy, the Westminster model, from which it derived its rhetorical force. We can observe the influence of that model in the arguments for Brexit that were advanced by some of its leading proponents. However, that model only ever provided a partial characterisation of the way in which UK democracy worked. It never covered Northern Ireland with its distinct institutional arrangements and individual party system. With devolution it increasingly ceased to be applicable to Scotland, which had developed a distinct party system from the 1970s, so that the premise that a Westminster government acted on behalf of the 'people' of the UK could no longer be maintained.

This disjunction between the Westminster model of democracy at the domestic level was complemented by a disjunction in the way in which the UK related to the developing European Union internationally. With its promise of an ever-closer union, the EU could never embody the principles of international cooperation implied by the democratic nationalism of the Westminster model. As Kenneth Clarke pointed out in the second reading debate, the EU was already committed to more than an economic community by the time of the referendum in 1975. The subsequent creation of the single market and then the single currency depended on being able to strike the grand political bargains across functional competences that a series of separate international regimes could never have managed. Only with supranational authority was this possible.

The upshot of this argument leads back to Held's identification of the dilemmas at the centre of democratic thought. If supranational authority is necessary, and if, to be legitimate, such authority needs to embody democratic principles, then what might be the institutional forms in which those principles can find expression? Held (1995b, p. 108) himself saw the institutions of the EU as exemplifying some of these institutional forms, at least as a steppingstone to a cosmopolitan democratic order. For Held, the European Parliament was a way of scaling up the deliberative capacities of a public legal order like that of the EU and instantiating the principle of political accountability. One implication of such a view is that, although it is obviously true as Brexit supporters allege, the EU the UK joined in 1973 is not the EU that was voted on in 2016, that is, in part, because the EU has developed into a unique international organisation by virtue of the fact that it has some democratic credentials.

A distinct, although in some versions complementary, approach is to emphasise not the democratic deficit of the EU but its democratic disconnect (Bellamy, 2019; Lindseth, 2010). On this analysis, the core issue to be addressed in promoting democracy in the EU is to ensure that supranational authority is accountable to national as well as European political representatives. This approach does not seek to supersede the national level of democracy. It insists on seeing the EU as being a union of peoples. However, it does seek to strengthen the role of national democratic institutions to scrutinise and shape the exercise of supranational authority. Ironically, as a House of Lords (2014) committee pointed out some time ago, much of the capacity to strengthen the role of national parliaments already exists in the EU, but was too seldom used by political representatives.

In drawing attention to these theories of democracy beyond the nation state, I do not suppose that there is, waiting to be discovered if only someone could find it, a political theory that can guide the design of transnational democratic institutions. As always, to quote Hegel, philosophy comes on the scene too late. Institutions first have to be crafted before they can be theorised. Philosophy only paints its grey in grey when a form of life has grown old. That is why we can understand the Westminster model, and also understand that the future of Brexit will not conform to the past that the model portrayed.

ENDNOTE

[1] For a valuable compilation see: https://publications.parliament.uk/pa/cm201415/cmselect/cmpolcon/463/46302.htm

REFERENCES

BBC News. (2020) Boris Johnson 'called Scottish devolution disaster' [online]. Available from: https://www.bbc.co.uk/news/uk-politics-54965585

Beetham, D. (1999) *Democracy and human rights*. Cambridge: Polity Press.

Bellamy, R. (2007) *Political constitutionalism: A republican defence of the constitutionality of democracy*. Cambridge: Cambridge University Press.

Bellamy, R. (2019) *A republican Europe of states: Cosmopolitanism, intergovernmentalism and democracy in the EU*. Cambridge: Cambridge University Press.

Clarke, H.D., Goodwin, M. & Whiteley, P. (2017) *Brexit: Why Britain voted to leave the European Union*. Cambridge: Cambridge University Press.

Dahl, R.A. (1998) *On democracy*. New Haven and London: Yale University Press.

Evans, G. & Menon, A. (2017) *Brexit and British politics*. Cambridge: Polity Press.

Hart, H.L.A. (2012) *The concept of law*, 3rd edition. Oxford: Clarendon Press.

HC Deb. (09 June 2015). cols. 1047-1048 and 1099. Available from: https://publications.parliament.uk/pa/cm201516/cmhansrd/cm150609/debtext/150609-0001.htm [Accessed 10 May 2021]

Held, D. (1995a) Democracy and the international order. In: Archibugi, D. & Held, D. (Eds.) *Cosmopolitan democracy: An agenda for a new world order*. Cambridge: Polity Press, pp. 96–120.

Held, D. (1995b) *Democracy and the global order*. Cambridge: Polity Press.

Held, D. (1998) Democracy and globalization. In: Archibugi, D., Held, D. & Köhler, M. (Eds.) *Re-imagining political community: studies in cosmopolitan democracy*. Cambridge: Polity Press, pp. 11–27.

House of Lords. (2014) European Union Committee, *The role of national parliaments in the European Union*. London: The Stationery Office Limited, HL Paper 151.

King, A. (2007) *The British constitution*. Oxford: Oxford University Press.

Lindseth, P.L. (2010) *Power and legitimacy: reconciling Europe and the nation-state*. Oxford: Oxford University Press.

Pettit, P. (2012) *On the people's terms: A republican theory and model of democracy*. Cambridge: Cambridge University Press.

'R (Miller) v Secretary of State for Exiting the European Union' (2017) *United Kingdom Supreme Court, 5*. Available from: https://www.supremecourt.uk/cases/docs/uksc-2016-0196-judgment.pdf

Sidgwick, H. (1891) *The elements of politics*. London: Macmillan.

Stephens, P. (2021) *Britain alone: The path from Suez to Brexit*. London: Faber & Faber.

Taylor, C. (1993) *Reconciling the solitudes: Essays on Canadian federalism and nationalism*. Montreal & Kingston: McGill-Queen's University Press.

Tuck, R. (2016) The left case for Brexit [online], Dissent, 6 June. Available from: https://www.dissentmagazine.org/online_articles/left-case-brexit

Weale, A. (2007) *Democracy*, 2nd edition. Houndmills: Palgrave Macmillan.

Weale, A., Pridham, G., Cini, M., Konstadakopulos, D., Porter, M. & Flynn, B. (2000) *Environmental governance in Europe: An ever closer ecological union?*. Oxford: Oxford University Press.

AUTHOR BIOGRAPHY

Albert Weale is Emeritus Professor of Political Theory and Public Policy in the Department of Political Science, University College London. He has published widely on issues of political theory and public policy, especially health policy, environmental policy, the European Union, the theory of justice, and democratic theory. His latest book, *Modern Social Contract Theory*, was published by Oxford University Press in June 2020.