

In Conversation with Professor Vernon Bogdanor

Teresa Turkheimer

Currently Professor of Government at King's College London, Professor Vernon Bogdanor is a leading expert in British constitutional politics and history and has received a CBE in recognition of his extensive contribution to the field. In his most recent book titled Britain and Europe in a Troubled World published in 2020, Professor Bogdanor traces Britain's historical relationship with the European Union in order to understand how Brexit came to be. In this interview, Professor Bogdanor tackles the constitutional issues that the United Kingdom is likely to face in a post-Brexit era, the different lessons learnt as a result of the referendum vote in 2016, and the role that the monarchy has to play in the current British parliamentary democracy.

This interview was conducted across 28 and 29 April 2022.

CJLPA: What brought you to research and understand British politics? What fascinated you the most about British politics or the British political system?

Professor Vernon Bogdanor: Our very strange constitution. The Queen once said that the British constitution has always been a puzzle and always will be. I have tried to elucidate that puzzle. We are in fact one of just three democracies in the world which do not have constitutions. The other two are New Zealand - whose population is half that of Greater London - and Israel, although the Israelis are working towards a constitution. Now, some people in Britain ask, 'Should we have a constitution?' But in a sense, that is an absurd question. The real question is: 'What is there about the air in Britain that means we should not have a constitution, not do what every other country does?' This problem has become more acute since we left the European Union (EU). In my view, when we were in the EU, we were in fact living under a constitution, namely the treaties of the EU, which provide for a division of power both at the centre between the Commission, the Council of Ministers, the Court of Justice, and the Parliament, but also territorially between the EU itself and the member states. Also, in recent years, the EU has yielded the protection of rights in the European Charter of Fundamental Rights which was enacted in 2009. That led to a remarkable episode in British constitutional history which has not been very much noticed. In *Benkharbouche v. Secretary of State for Foreign Affairs*¹, Ms. Benkharbouche claimed against the Sudanese embassy unfair dismissal, failure to pay her the national minimum wage and holiday pay, as well as breaches of the Working Time Regulations. The Sudanese embassy claimed immunity under the provisions of the 1978 State Immunity Act. But the Supreme Court ruled that sections of the Act were incompatible with Article 6 of the European Convention providing for a fair trial. The remedy for this would be a declaration of incompatibility which is not a strictly legal

remedy, since it has no legal effect. But Article 47 of the EU Charter of Fundamental Rights provides that if rights had been violated by the Convention, they have also been violated by the Charter. So, the relevant parts of the State Immunity Act were disapplied. For the first time in British history, the Court disapplied part of an Act of Parliament because it conflicted with human rights. That, I think, would have Dicey turning in his grave. It was something new and unprecedented. As we have now left the EU, the Charter no longer applies, but *Benkharbouche*, nevertheless, is an important precedent.

The European Charter protects a far wider range of rights than the European Convention. The Convention was enacted in the early 1950s and human rights are, in my view, a dynamic phenomenon. For example, in those days there was no thought of the right to protect the environment which is in the European Charter. Few thought of the right to academic freedom which is in the European Charter. But the most important right is the right to equality in terms of gender, sexual orientation, race, religion and so on which is not in the European Convention. There is also a right to healthcare in the European Charter but not in the Convention. The Convention provides a right to education but not healthcare.

Leaving the EU took us out of a constitutional system. We have incorporated almost all EU law into our own law, so that the government and parliament can decide what they want to keep, what they want to modify, and what they want to repeal. That is, of course, a huge task. Incorporation itself is nothing new. For example, our ex-colonies incorporated British law so that they could decide which British laws they wanted to keep. But when they did that, it was because they wanted to develop a constitution of their own. We have done something perhaps unique in the democratic world and instead of entrenching we have been dis-entrenching. We have moved away from a constitutional system to an unprotected

¹ [2017] UKSC 62.

constitution. This is emphasised by the fact that one part, almost the only part I think, of EU law that we have not incorporated is the European Charter of Fundamental Rights. This means we have moved from a system which protects rights, to one which does not protect rights. We do have the European Convention, but the way we have adopted it is rather different from almost every other country because judges are not given the right by the Human Rights Act to disapply legislation conflicting with the Convention. All they can do is to issue a declaration of incompatibility. That is just a statement which has no legal effect, and it is then up to Parliament to decide whether to take action. Parliament has a special fast track procedure by which it can take action if it so wishes, but courts in other European countries have much greater powers because they can disapply legislature. This raises a very interesting question because the other 27 member states of the EU do, of course, retain the European Charter. So, I would ask this question: Are our Members of Parliament (MPs) so much more sensitive to human rights than the legislators of other countries in Europe that they can be entrusted with this very important function? I will leave the answer to this question to those reading the interview!

It is worth stressing that rights are not solely for nice people like ourselves, but also for very small minorities who may not necessarily be very nice, for example, prisoners, suspected terrorists, suspected paedophiles, and so on - also, asylum seekers, a very small minority not effectively represented in Parliament, also have rights. Brexit raises this issue of whether we should continue to live under an unprotected constitution which does not effectively protect human rights.

And there is a further question arising from Brexit. Does the devolution settlement need further protection in Scotland, Wales, and particularly in Northern Ireland? I will discuss devolution a little later.

With our strange constitution, law and politics are closely intertwined. Much more of our constitution than in other countries is based on convention. These conventions, in turn, often depend upon popular feeling. For example, we have the case now of Boris Johnson and Partygate. A Prime Minister who has deliberately misled Parliament must, so the Ministerial Code declares, resign. But this convention depends in large part on popular feeling. Are people angry enough to protest to their MPs or do they say that it does not matter too much? A great writer on the constitution, not as well-known as Bagehot, but well worth reading, Sidney Low, author of *The Governance of England* first published in 1904, said, 'We live under a system of tacit understandings, but the understandings are not always understood'. That seems to me a very perceptive point about the British constitution.

CJLPA: I am assuming on the basis of the points you have just mentioned, do correct me if I am wrong, you are a supporter of a codified constitution in the UK. In light of this, has this been received or acknowledged by figures in the political system? Are there supporters for a constitution at the moment? I can imagine that the current opposition might not be keen on that idea.

VB: When we had a Labour government, Gordon Brown who was Prime Minister from 2007 to 2010 - and I think it no accident that he came from Scotland - favoured a constitution. If he had been re-elected in 2010, he would have tried to enact one in 2015 which was the 800th anniversary of the Magna Carta - but he was not re-elected. The Liberal Democrats have long been in favour of a constitution,

and I think some in the Labour Party are. Perhaps the longer Labour is in opposition, the more likely it is to support a constitution. But the Conservatives are, in general, not in favour, partly because they are the natural party of government in the sense that they tend to be in power most of the time.

I mentioned that it was not an accident that Gordon Brown, being Scottish, was in favour of a constitution, for many Scots have never accepted the idea of the sovereignty of Parliament. They say that it is the Scottish people who are sovereign, and that point has been tacitly accepted by Westminster. There was a referendum in Scotland on independence in 2014. The Scots voted against it, but had they voted for it, they would have become independent. There was also a referendum before devolution was introduced. In both cases it was accepted that it was for the Scots to decide, even if their decision went against the wishes of Westminster. So, for the Scots, the central principle is perhaps less the sovereignty of the Westminster parliament than the sovereignty of the Scottish people. That is also accepted in Northern Ireland. If a majority in Northern Ireland were to decide that it wished to join with Ireland, that would be accepted by Westminster. An American once said that in politics where you stand depends upon where you sit. Perhaps that is true in Britain because it may be that the sovereignty of parliament is primarily an English concept. The Welsh government favours a quasi-federal system for the United Kingdom (UK). The Scots believe in the sovereignty of the Scottish people. In Northern Ireland there is a divided community, but there also, the principle of the sovereignty of parliament is overtaken by the principle of the sovereignty of the people. There are, however, two different views about the Northern Ireland constitution depending on whether you are a unionist or a nationalist.

CJLPA: Say Gordon Brown is attempting to get re-elected again and he has the idea of codifying the constitution within his manifesto. What is the extent of the risk of the codification of the constitution becoming a politicised issue in the media?

VB: I doubt if there is much risk. Enacting a constitution would be a long process because it would require popular consent. Most people in England do not think much about the constitution, although they do in Scotland and Northern Ireland. We would first have to have a body to draw up an agenda; then you would need a Royal Commission which would have to travel around the country having evidence sessions. That would be a kind of learning exercise for the public. Then the government would draw up a constitution and then there would have to be a referendum, probably with a majority needed in all parts of the UK, unlike the Brexit referendum. So, it would be a long process. I do not think it would necessarily be party political. I think, however, that it will be a long time before we get a constitution. It is not an immediate issue, and it is very low on most people's priorities. Human rights also are very low on most people's priorities, though one lawyer, former MP and former attorney general Dominic Grieve, has made the interesting suggestion that the European Convention should include a right to healthcare as the European Charter does, in addition to the right to education. The reason is that the right to healthcare would affect large numbers of people, and therefore it would be more likely that more people would feel they own the Convention, which they do not at present now because they think of it as defending disreputables such as criminals. But they would then own it and there would be more respect for human rights. Otherwise, constitutional issues are a minority concern. There are no mass meetings in Trafalgar Square with crowds clamouring for a constitution!

CJLPA: If a human rights issue is quite prominent and has a lot of media following, perhaps it could grab some attention?

VB: Only amongst a small group of the intelligentsia, the academics - the chattering classes if you like, not amongst the people as a whole. I do not think academics are very representative of public opinion in general or necessarily have much insight into public opinion. Opinion polls show that enacting a constitution is not a priority.

CJLPA: I think you would agree with me that there have been many British politicians who have been out of touch with the citizens that they are trying to represent: take the recent Partygate scandal that you mentioned earlier and the fact that it is currently difficult to punish a misbehaving government, or Brexit where even though the referendum was a close result, MPs were evidently not representative of the UK because a majority of them actually wanted to remain. In light of that, to what extent is the current UK political system truly a representative democracy?

VB: I think your introduction of the referendum is very important. For, as you say, the majority of MPs were against Brexit, and the government was against Brexit. For the first time in British history, Parliament was enacting legislation in which it did not believe. Legally, Parliament is still sovereign, it could have ignored the referendum, it would not have been unlawful to do so. But, in practice, it was not possible to ignore the referendum. So, Brexit is a milestone in our constitutional history. Not only was Parliament no longer in practice sovereign, it was shown not to be representative of the people.

As you know, many in the British political elite were fervent Remainers and did not want to accept the result. The EU does not like referendums either. In 1974, shortly before we were to have our first referendum, the ex-President of the European Commission Monsieur Jean Rey said these matters should be left to trained people. "You cannot", he said, "have a system in which housewives should be allowed to decide the future of Britain!" A lot of the arguments against referendums, in my opinion, are similar to the arguments used against extending the suffrage - that the people are ignorant, that they do not understand the issues, and that political decisions are best left to elites. A French reactionary, Joseph de Maistre, declared that the principle of the sovereignty of the people - which is now a part of our constitution I believe - is so dangerous that even if it were true, it would be best to conceal it! Not only is the referendum now part of our constitution, but there are, what we might call, 'shadow referendums', referendums which were not held because of fear of the result, but which nevertheless influenced the political agenda. For example, when Tony Blair was Prime Minister from 1997 to 2007, he very much wanted Britain to join the Euro, but he believed that this required a referendum. However, he never put the issue to referendum because there was not one single opinion poll which showed a majority in favour of the Euro. You may say looking at the experience of continental countries, particularly Mediterranean countries such as Spain, Portugal, Italy, and Greece, that we were lucky not to join the Euro!

CJLPA: On the topic of democracy, I would like to ask a question specifically about the role of the British monarchy because monarchs by now are the exception, not the rule. Especially now, in Britain, it is quite difficult to support the monarchy when its role in the UK constitution might be minimal but its influence, as we have seen, has proven to be plenty. What role, if any, does the monarchy have to play in a democratic system?

VB: The main role of the monarchy is not constitutional. Its constitutional powers are almost nil. But as well as being head of state, the Queen is head of the nation. She can, as it were, represent the whole country to itself. By contrast, if you have a president, you either have a president such as Macron in France or Biden in America who is head of the executive. They represent not the whole country, but just half of the country. Or you can have a constitutional president without political power which, for example, Italy and Germany have. I suspect that very few people could name the presidents of Italy and Germany, I certainly could not, and the position is usually given to a harmless retired politician who is put out to grass. Do we want that here? President Cameron or President Blair? They could not represent the whole country. This is particularly important with the devolution settlement because any elected person would be either English, Scottish, Welsh, or Northern Irish. The Queen is none of these and all of them at the same time. We are lucky in the Queen because she instinctively understands, what you might call, 'the soul of the British people', which it would be very difficult for a politician to do. Unlike a politician, she has no party-political history. No one knows whether she is Labour, Liberal Democrat, or Conservative, or what her views are on politically controversial matters. I think we are fortunate to have a constitutional monarchy.

The constitutional monarchies in Europe are very stable, moderate countries: some Scandinavian countries, Britain, the Benelux countries, and Spain. We are lucky that we have never had a revolution because revolutions or defeat in war tend to get rid of monarchies. For example, in Italy the monarchy was removed after the defeat in the Second World War because the king was thought to be associated with fascism, in Germany after the First World War, and in France after the revolution. We are lucky, perhaps because we are an island, that we have never been involved in revolutions or upheavals. In 1945, when we had the first Labour majority government, the American president Harry Truman was visiting Britain and he said to King George VI, 'I see you've had a revolution here', and the King said 'Oh no we don't have things like that'.

CJLPA: You say that the monarchy is the 'soul of the British people'. I would perhaps counter that. You mentioned the Nordic countries and the role that their monarchy has to play. I would say that the level of influence is completely unparalleled. It is true that the power is minimal, but the influence and the presence is not.

VB: I do not know if the Queen has much political influence. When has she exerted political influence? I do not think that is right.

CJLPA: I was thinking more of the case of Prince Charles.

VB: Yes, that is interesting. He has had influence, but not on party political matters. His technique is to raise an issue which he thinks has been hitherto ignored by politicians, for example, the environment and climate change. When the politicians do take up the issue, he steps back. He has also spoken on a number of other issues that he thinks important which are not party political, for example architecture, teaching Shakespeare in schools, and so on. He has said controversial things, but they are not controversial in the party-political sense. He has never spoken publicly about Brexit or whether we should have a Conservative government or Labour government. He is very careful in all his speeches not to appear partisan. He does not speak on advice like the Queen but, out of courtesy, he shows his speeches to ministers. I suspect that if ministers said, 'Well, look, this does entrench on government

policy', he would back down. He has known since birth what his role will be, and he has been trained and brought up in the constitutional tradition. He has not been party-political, but he has influenced opinion in other ways. I agree with you on that.

CJLPA: With race and identity coming up a lot, regarding the institution itself and its imperialist past, rather than the Queen more specifically or the members of the family, I think people disagree that it is representative of the British people.

VB: The monarchy in Britain is unlike the other monarchies I have mentioned because it has an international dimension thanks to the existence of the British empire, now the Commonwealth. Of the 54 countries which are members - around a third of the world's population - 15 of them, now that Barbados is a Republic, are Commonwealth monarchies. The rest are republics. The Commonwealth is a voluntary organisation of equals, while the empire was based on domination. But the empire cannot have been quite as terrible as some suggest if almost all of the colonies have voluntarily agreed to join the Commonwealth. The only former countries ruled by Britain that have voluntarily left the Commonwealth are Burma, now Myanmar, and Ireland. Two countries which were not part of the empire - Mozambique and Rwanda - have joined. The Commonwealth gives the monarchy an international dimension. The majority of people in the Commonwealth are not white and not Christian. This means that the monarchy must stand and does stand for racial and religious equality. In her Diamond Jubilee in 2012, the Queen's first visit was to Leicester which is an example of a multiracial city where integration has proved successful. And in 2004 she made a particularly interesting Christmas broadcast. She spoke of the parable of the Good Samaritan, the implication of which was clear. "Everyone is our neighbour, no matter what race, creed or colour. The need to look after a fellow human being is far more important than any cultural or religious differences. Most of us have learned to acknowledge and respect the ways of other cultures and religions, but what matters even more is the way in which those from different backgrounds behave towards each other in everyday life." She then went on to say, "It was for this reason that I particularly enjoyed a story I heard the other day about an overseas visitor to Britain who said the best part of his visit had been travelling from Heathrow and into central London on the tube. His British friends, as you can imagine, were somewhat surprised, particularly as the visitor had been to some of the great attractions of the country. "What do you mean?" They asked. "Because", he replied, "I boarded the train just as schools were coming out. At each stop children were getting on and off - they were of every ethnic and religious background, some with scarves or turbans, some talking quietly, others playing and occasionally misbehaving together, completely at ease and trusting one another." "How lucky you are", said the visitor, to live in a country where your children can grow up in this way". We can also see the influence of the monarchy in the Queen's broadcasts on COVID and in broadcasts commemorating D day and VE day where she was able to speak for the whole country. In my opinion, the case for constitutional monarchy is unanswerable.

CJLPA: To what extent did the countries in the Commonwealth remain within the Commonwealth for economic reasons?

VB: That is part of the argument, but one should not exaggerate it because, after all, when countries become independent, they do not ask whether they will be better off or worse off. If you had said to the Nigerians in the 1960s, 'You will be economically worse off outside when you are no longer a British colony, when you are no longer ruled from Westminster', they would have said 'That's completely

irrelevant. We want to govern ourselves'. The Indians and other newly independent countries would have said the same. So, I would not overstress that argument. The Commonwealth is in a way a sentimental organisation which does a great deal of good because one of the main problems in the world is the relationship between people of different ethnic groups and religions. It is often forgotten that the Queen's Christmas broadcast is not delivered in her role as Queen of Britain but as Head of the Commonwealth in which a majority are neither white nor Christian. I think it must be valuable to bring together people of different countries and different ethnic groups.

CJLPA: We know that the Northern Ireland protocol is a particularly precarious issue, and a very delicate part of the Brexit process. We know it has been ruled by the High Court and the Court of Appeal in Northern Ireland as legal. If it is not constitutional, on the other hand, what does that mean for Brexit as a whole, or even just the UK constitution in general?

VB: What it means is that at the very least the Protocol must be radically amended. The Protocol may or may not be constitutional. But the courts were asked to pronounce on whether it is lawful - a different matter. They have said that it is lawful, but it does not follow that it is constitutional. After all, a statute that is incompatible with the Human Rights Act is lawful, but it is not constitutional. It would be lawful for the government to have ignored the Brexit referendum, which was an advisory referendum. But most of us think it would not have been constitutional.

CJLPA: What is likely to happen from here on in with the Northern Ireland protocol? What are we likely to see?

VB: The Northern Ireland Protocol is a consequence of Brexit. Northern Ireland is the only part of the UK with a land border with an EU country. That has become of greater importance since Brexit because Britain will probably diverge from EU rules and regulations. The question is whether the regulatory and customs border should be on the island of Ireland or in the North Sea. Wherever it is, there is going to be trouble because if it is in the island of Ireland, the Irish nationalists are going to be annoyed. If, as is the case, it is in the Irish Sea, the unionists will be annoyed. Brexit goes against the spirit of the Good Friday Agreement or Belfast Agreement - I should say that there is no agreement on what it is to be called. If you are unionist you will call it the Belfast Agreement, if you are nationalist you will call it the Good Friday Agreement. But whatever it is called, the Agreement was an attempt to resolve the Irish problem. It enabled residents of Northern Ireland to identify as British, Irish, or both, and to enjoy Irish citizenship as well as British citizenship. But, with Brexit, if someone decides on Irish citizenship, she cannot access in Northern Ireland the rights of an EU citizen. She cannot, for example, access the European Charter for Fundamental Rights. So, Brexit does complicate the Irish problem. Both John Major and Tony Blair said in Northern Ireland that this would be a consequence of Brexit. Northern Ireland, as it happens, did not vote for Brexit: 56% voted to stay in the EU. But Britain is not a federal state and so Northern Ireland was overruled by the rest of the country.

The Northern Ireland courts have been considering the contention by the unionists that the Protocol is unlawful because it goes against the Act of Union of 1800 which provided that there should be no customs barriers between Britain and Ireland. The courts have said that the relevant part of the Act of Union was overridden by the Withdrawal Act which is also a constitutional statute. Parliament

well knew what it was doing when it enacted the Protocol, and in so doing, it implicitly repealed the relevant part of the Act of Union. The argument against the constitutionality of the Protocol would be that the Act of Union is absolutely fundamental because it is constitutive of the UK itself. So, it cannot be implicitly repealed but has to be explicitly repealed. That issue may go to the Supreme Court, I do not know whether leave to appeal to the Supreme Court has been given but the unionists are seeking it.

CJLPA: Because of the fact that it was brought by staunch unionists to the courts, is conflict almost inevitable?

VB: Yes. The withdrawal agreement is a victory for the Irish nationalists. It is a zero-sum game. The Good Friday Agreement, or the Belfast Agreement, tried to avoid the zero-sum game. Both unionists and nationalists could win, one could be both British and Irish. But, in relation to the Protocol, one can understand the unionist position, since the Protocol divides the UK economically.

CJLPA: Regardless of how the Northern Ireland protocol is likely to turnout, are we likely to see a chain reaction of similar, but more sovereignty-related, issues in the other devolved nations?

VB: Yes, Brexit has caused renewed conflict between Westminster on the one hand and Scotland and Wales on the other, for this reason. When the devolution settlement was made in the late 1990s the assumption was that Britain would stay in the EU. The devolution of some functions, for example, agriculture and fisheries, was fairly meaningless because almost all policy in those areas was determined by Brussels, so there was no real scope for an independent policy in these areas from Edinburgh or Cardiff or, indeed, Westminster. In theory, with the incorporation of EU law back into Britain, all EU powers relating to devolved matters should go to Scotland and Wales. But this raises a problem since we cannot have, for example, four different systems of agricultural subsidies in the UK, especially when agriculture will almost certainly be the subject of trade negotiations. Suppose we seek an agreement with America. The Americans would want to ensure that they had access to the whole of the UK market, not just England. So, in the Internal Market bill, the government reserved some powers which had been devolved. There has been much annoyance in Scotland and Wales and their governments have tried to amend the law through the courts. They have, however, not succeeded since we do not have a federal system. So, Parliament can still legislate on matters devolved to Scotland and Wales. But in Scotland and Wales many say, 'This may be lawful but it's unconstitutional, you shouldn't be legislating on devolved matters without our consent.' So, Brexit has raised problems in Scotland and Wales as well as in Northern Ireland.

CJLPA: On a similar note, there is the looming possibility of a second independence referendum. In Scotland, Nicola Sturgeon has promised the Scottish people that in a stable post-COVID era she would propose to them the question of independence.

VB: That is possible, but contrary to what many think, Brexit makes independence more of a gamble because there would then be a hard border between Scotland and the rest of the UK. The rest of the UK is Scotland's largest trading partner: almost all its exports go to the rest of the UK, not to the Continent. So, independence could be economically catastrophic for Scotland.

In addition, Scotland gets more per head in public spending than England thanks to the Barnett formula. And she would face the same problem she faced in 2014 of what her currency should be. If it were to be the pound, she would have her monetary policy controlled from London. A similar arrangement caused Greece and Italy many problems with the EU. They were restricted in their economic policy since they had no control of monetary policy which lay with the European Central Bank. If Scotland had her own currency, interest rates might rocket sky high, since the new currency would be such an uncertain quantity. If Scotland joined the Euro, she would have to reduce her budget deficit to around 3%. Her budget deficit is now at around 7 or 8%. The cuts in public expenditure or increases in taxation would need to be huge. They would make George Osborne, the austerity Chancellor, look like Santa Claus! Scotland would not get the benefit of Margaret Thatcher's EU rebate either, I suspect. So, independence is a less viable project than when Britain was in the EU, but, as I mentioned a moment ago, it might be argued that these economic factors are not really fundamental when it comes to independence. When India and Nigeria became independent, they did not ask whether they would be better off or worse off. Nor did Ireland when she became independent. Pressure for independence seems to be receding a little at the moment, though it is stronger amongst younger voters than older ones. The current Conservative government will not grant a second referendum but if there is a Labour government dependent on the Scottish National Party (SNP), the SNP might insist on a second referendum as a price for supporting that government.

So far, we have been talking about the British problem, but I think Brexit gives rise to great EU problems as well. Donald Tusk, the President of the European Council, said it was a mistake to believe that the factors leading to Brexit are not also present in other EU countries. Brexit, he said, should be a warning signal for the EU. President Macron of France - on the Andrew Marr Show in early 2017 - could not guarantee that if a referendum were held in France that it would not yield the same result as in Britain - Brexit. The EU faces problems and I think the main problem is that the original model - the Jean Monnet model, the Jacques Delors model - has reached its limit. As the EU comes to entrench upon national sensitivities, it encourages a populist reaction, particularly in areas such as immigration and control of economic policy. I think it would be better for Europe to develop along Gaullist lines, as a *Europe des etats*, a Europe of states (De Gaulle has often been mistakenly accused of using the phrase *Europe des Patries*). The Commission remains the only body that can initiate legislation. Many find that odd since it is not elected and cannot be dismissed by the voters. Some Gaullists have said that it should become a secretariat of the Council, and that seems to me sensible. The federalists, Jean Monnet and Jacques Delors, wanted the Commission to be eventually responsible to the European Parliament and the Council of Ministers to become the upper house of member states. But Europeans do not regard the European Parliament as their primary legislature. Their primary allegiance is to their domestic legislatures and the European Parliament is seen as part of an alienated superstructure - representing them not us. There is a conflict, exacerbated by the EU, between the political class and the rest. The political class favours integration but the people are sceptical. This is particularly so in France. It was first revealed 30 years ago when the French, thought to be at the centre of European integration, only narrowly accepted the Maastricht treaty. Then, in 2005, they rejected the European constitution. Nevertheless, the elites go ahead regardless and that seems to me foolish. They need to take account of popular feeling. The EU was founded in a different age, the early 50s, when there

was much greater deference, and I am not sure it works as well today when there is a demand for greater accountability. So, Brexit contains important lessons for the EU as well as for Britain.

CJLPA: What lessons have the member states themselves learnt? And do they have a responsibility for how Brexit played out?

VB: I think they need to look at how to combat populism and I have tried to suggest how that might be done. What is remarkable in Britain, contrary to many predictions - and I was myself a Remainer - is that Brexit, paradoxically, has liberated Britain's liberal political culture. Survey after survey has shown that the public is more sympathetic to immigration than it was. We have developed more liberal attitudes to immigration than most EU member states, and immigrants have more of a chance of finding employment here than in many other European countries. The present government contains six members from non-white ethnic minorities. Angela Merkel's last government in 2017 had none at all. When we left the European Parliament, we took a large percentage of ethnic minority Members of the European Parliament with us. A number of European countries have none at all. Contrary to what many predicted, we have not become a more insular racist country, we have become a more liberal country. Populist forces seem to have been weakened. The EU must itself learn how to combat populism.

CJLPA: After Brexit we saw many far-right parties recoil very quickly from their own plans to exit from the EU. What has the far-right learnt with regards to Brexit?

VB: The far-right benefits from general alienation from government, particularly on immigration and on the fact that the EU makes it very difficult for national governments to control economic policy. In the Mediterranean countries - not so much in Italy but in Spain and Portugal and possibly Greece - the far-left has gained more. The far-left has gained in France as well. It is the entrenching by the EU on national sensitivities that is so worrying. If you look at past federal states, many have been built after war - the American Civil War, the German wars under Bismarck, the Swiss war in 1848 - and took a long time to form, even in America where everyone speaks the same language. There is not going to be any sort of federation in a Europe comprising so many different national traditions, languages and cultures for a long time. One might have got it and might possibly still get it if an inner core of the original six got together - Germany, Italy, France and the Benelux. But there is very unlikely to be a federation of the 27 member states.

CJLPA: In light of some of the negotiations being postponed to a later date, when will we see a post-Brexit life? Will we be seeing it anytime soon?

VB: Brexit is a process not an event. I think the process will continue for a long time. And it will be some time before we can judge the economic and constitutional effects of Brexit. On these matters the jury is still out on whether Brexit will prove beneficial or not. The jury is also still out on the future of the UK. Will Scotland remain part of it? Will Northern Ireland? No one knows, and I am not going to predict. It is difficult enough for the historian to find out what has happened in the past let alone what will happen in the future.

Teresa Turkheimer, Head of Outreach (Writers) at *CJLPA*, is an MSc student in European and International Public Policy at the London School of Economics and Political Science. Her main interest lies in understanding the causes and effects of inequalities that characterise the labour market today, and is hoping to pursue a career in research in the coming years.
