

Not What the Bus Promised: Health Governance after Brexit by Tamara K Hervey, Ivanka Antova, Mark L Flear and Matthew Wood

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Not What the Bus Promised: Health Governance after Brexit, Tamara K Hervey, Ivanka Antova, Mark L Flear and Matthew Wood (Hart 2023) 352pp; hardback £85/ebook £37.79/paperback £41.99.

There are few who read this review who have not at some time seen the pictures of the now famous (or infamous) Brexit bus emblazoned with the false, wild and wonderful, hopeful and aspirational (depending upon perspective and/or political persuasion) promises that enthralled, coaxed or appalled its ‘viewers’. Hervey et al have written a book that seeks to interrogate the substance of these promises. The title of the book (*Not What the Bus Promised: Health Governance after Brexit*) is clever – it attracts potential readers with an open-handed invitation to analyse those big, big promises. Ultimately, the book consists of a deep dive into the realities (and non-realities) of health governance in the United Kingdom (UK) after Brexit.

Once the reader is enticed into the labyrinthine net of the inter-related stories and cases laid out in this book, there is a treat in store. The ‘Foreword’ clearly delineates the emphases placed by the authors on a number of key themes. It is pointed out therein by the author of the ‘Foreword’, Dan Wincott, that making sense of Brexit is ‘a mammoth task’ (at vii). The book attempts to unpick the legal

terrain underpinning what we come to know are the fallacies behind the promises.

The 'Introduction' sets out the narrative of socio-legal scholarship and, in so doing, provides a very interesting social backdrop to the impact of the Brexit bus and its promises. The authors describe the aims of the book clearly and situate these aims within the context of stories within a story. Such stories are personal and complex and point to the similarities of experience, and of loss, endured during the post-Brexit era, especially in the context of Covid-19. They describe the many conversations had on foot of conducting the project and the reader understands and empathises with these conversations and these stories. The authors explore how the research design is linked to, and evolves from, particular narratives and relate the research to specific ethical dilemmas.

The book fleshes out these methodologies in a second chapter. The authors describe the methodology as involving 'close doctrinal analysis of pre-existing and novel legal texts and interviews with legal and policy actors, especially in London, Belfast and Dublin' (at 7). The outcomes are compared with the hopes and dreams of 'ordinary people' for a 'legitimate post-Brexit future for the NHS, obtained through novel ethnographically-inspired methods' (at 7). The authors describe in detail how they distinguish between ordinary people and elites/experts. They also clearly explain how individuals were selected and how the data was interpreted.

At this point, this reviewer felt that the second chapter describing and analysing the methodological approach was almost too much – it may have served to overcomplicate the reasoning behind the approaches adopted. The detailed descriptions of the interviews and their processes with health policy stakeholders and street conversations may, indeed, have led to the production of meaningful data, but the reader eagerly awaited the 'meat' of the book. This was certainly delivered in subsequent chapters. These compelling chapters outline the effects of European Union (EU) law on health and the National Health Service (NHS) and broaden our understanding of the complexities governing the intersection between the two. The chapters describe cross-border healthcare in Great Britain (GB) and Northern Ireland (NI) and explore the related challenges with keen insight. Immigration law and NHS staffing are analysed, and the complexities therein are teased out with discernment. The authors delve into the transition period after the UK left the EU and its aftermath and provide concerning conclusions and challenges for UK healthcare. Chapter 4 is particularly interesting because it jumps into the topic of the very title of the book – the bus! The book explains that many people did not believe what the bus promised, describing it as

‘the bus of lies’ or ‘a load of old crap’ (at 40). This was even felt by people who voted ‘leave’. The authors provide a fascinating analysis of this, especially in relation to the way in which interviewees had a ‘shifting and contradictory sense of “knowledge”’. It is argued here that the analysis provided:

suggests that the claim on the bus works to manipulate the hopes of people who would like to see a better-funded NHS, by offering an implicit promise that the benefits associated would emerge from the process of leaving the EU, but without even explaining how that process would lead to the desired outcomes (41).

The discussion in chapter 5 is very thought-provoking. It focuses on cross-border healthcare before the Withdrawal Agreement and the EU–UK Trade and Cooperation Agreement. It is extremely useful for anyone interested in understanding the nuances of cross-border relationships post-Brexit. Where does Northern Ireland fit into this context? Flear provides an insightful explanation of his experience of someone from outside Northern Ireland, currently living in Northern Ireland, which has now become his home (at 74). He refers to the fears surrounding Brexit as well as a feeling that Brexit could deliver a ‘best of both worlds’ outcome. According to Flear, ‘to cut across many of these views is a feeling that Brexit is something happening that is beyond the control of most people. So: why worry too much?’ (at 74). The chapter makes an excellent effort to explain the implications of Brexit on health in Northern Ireland. The book highlights the fact that all of the interviewees ‘shared a complex understanding of the island of Ireland as a fragile, but functioning, debordered space’ (at 87). Further useful clarification is given by the authors:

There was no sense that people from Ireland receiving healthcare in Northern Ireland were perceived as somehow ‘other’, as EU citizens, and therefore should be excluded from access to healthcare. Instead, there was a strong sense of shared healthcare infrastructure, of ‘health corridors’; through which people access the healthcare they need on either side of the border depending on convenience and cost. The vast majority of people we talked with expressed concern, or even fear, that this precious and precarious way of life would be lost as the UK’s relationship with the EU unfolded. (at 87)

Halfway through the book, the assessment lens broadens to include insights into medicines, medical devices and equipment within specific regulatory frameworks and contexts. The shift to biomedical research is interesting and the authors conclude that lack of agreement as to what constitutes the overall governance environment for biomedical research is worrying. Not surprisingly, the people who were interviewed on the streets did not discuss biomedical research,

but there was a desire for the NHS ‘to be, remain, or become the best in the world’ (at 143).

The final third of the book relates to interconnecting relationships – trade, NHS, health and the associated health governance that operates within (and beyond?) these relationships. Issues such as accountability and misconduct are touched on, but fleetingly, and perhaps that is a pity because these are ‘bread and butter issues’ – even life and death ones – that are arguably of more concern to the reader than the more torturous consideration of intangible EU regulations.

The vexed question of accountability for post-Brexit health governance is teased out in chapter 11 by analysing the views of ‘ordinary people’ and by discussing the possibility of legal accountability of this governance from within the context of pervading electoral law, evidence of misconduct in public office, use of the NHS logo and issues pertaining to freedom of information. The authors draw the interesting conclusion that, notwithstanding difficulties around assigning accountability to Boris Johnson or to subsequent governance in relation to the ‘broken promise’, ‘a significant proportion of people thought that law should be a viable accountability process in this instance’ (at 175). The authors provide chilling and conclusive evidence of the deficiency of UK law as it applies to this area.

The concluding chapter offers an interesting and informative summary of the overall findings of the research. The authors outline in some detail what they have learnt about the main effects of leaving the EU, particularly in respect of the impact on the NHS and health, summarised as ‘detrimental’ but not as ‘devastating’ (at 178). They make very insightful judgements about ‘new’ and ‘surprising’ findings, including those relevant to migration, distrust and perceived loss of the use of potential benefits from leaving the EU. The analysis of the rock of the law as ‘holding the ring’ in terms of peacekeeping between complex ‘players’ is extremely interesting and offers an alternative evaluative viewpoint in a changing legal landscape that is progressive and insightful.

The way in which the book summarises how ‘truth’ comes to be formed – through story telling (and story-making?) – is a high point in the book. It causes us to reach within to see what our own Brexit and Covid-19 stories are, and were, and to interrogate the degree to which they, in turn, are truth-making or communicate meaning that resonates beyond the self. And this is what the book has done – it has communicated meaning beyond the jargons or captions designed to manipulate the viewer/reader. It has sought ‘truth’ within what is identified as a changing and challenging socio-legal context, and the telling of that truth (or those truths) has been captivating and

instructive. The authors identify what they have learned and continue to learn, and therein lies the challenge for the reader. We are now emboldened to go beyond the promises of the bus (or its equivalence) and to seek the complexities of truth behind the visual prompt. This book certainly helps the reader to interpret the impact of leaving the EU on UK healthcare provision. The stories told by individuals give emotional and social context to the description of the legal landscape and provide the book with ‘heart’.

Were there gaps in the book? Yes, but it would be impossible for one book to quantify all the ways in which Brexit had an impact upon society or upon health. Perhaps, the narrative could have focused less on regulatory frameworks at EU level and more on commentary on societal contexts at the time of Brexit and beyond, but that, arguably, was not the job of the book. The authors set out to demystify the claims of Brexit about healthcare, and they certainly did so. They did not provide all the answers (this would be an impossibility), but there is much to be learnt about Brexit and health governance in this book. I hope politicians will read it and be chastened by the knowledge that words are power, and promises, which, if left unfulfilled, can come back to haunt. I hope it will be read by legal ‘experts’ at both UK and EU level, who may gain greater understanding of how the law works, or fails to work, cross-jurisdictionally in a time of febrile political flux. But mostly, I hope it will be read by the people whose stories of grit, determination, loss and endurance provide the pivotal backdrop to this innovative and interesting book.