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Writing about EU law in the UK after Brexit†

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What is it like to do academic writing about European Union (EU) law from within the United Kingdom (UK) since Brexit?

I have spent *a lot* of time over the past decade thinking about the UK's withdrawal from the EU – about Brexit. Yet, I realise that I had not really reflected before on the specific dimension of it suggested to me for this contribution to the Reflections on Writing series. Even though it is something so central to my own academic life. To my academic identity even. For this short article, I thought first about my academic writing in general and then about whether it has changed since Brexit – or more accurately, because of Brexit.

BREXIT FOR AN EU-FOCUSED ACADEMIC: IN GENERAL

We do not write in a vacuum. All academic writing has context.

There are things that are relevant to writing about Brexit that are relevant to writing about all kinds of things: how to find out, reliably, about developments that occur at scale and at pace, for example; how to ensure that something written about them has more than a two-day shelf-life; how to cut across multiple areas of procedural and substantive law; how to process and to some extent reconcile strongly-held, often polarised, views.

Many academics write about things that require deftness and skill to deal with some or all of these challenges all of the time. But not all contexts carry the same weight at a given time.

I have worked as an academic in the field of EU law at a UK university for over 25 years. I am an Irish national, and I therefore remain an EU citizen. I cannot write this article without saying to its readers, openly and straightforwardly, that Brexit has had a profound emotional and personal as much as professional impact on the life that I live here.

In a professional sense, Brexit has battered the intellectual enterprise of providing UK-based critical analysis of the EU – one that was both highly influential and deeply respected for decades. It has brought about an existential threat

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to the sustainability of EU studies as an academic discipline in the UK and to EU law more specifically as a subject of interest. It has sparked an exodus of academic talent away from UK universities. It has turned the work of those who stay into an ongoing challenge to demonstrate both credibility and viability. In several UK institutions, it has reduced communities of academic critical mass to lone scholars. They have been lost altogether at some. And notwithstanding the efforts of so many to ensure and to signal the opposite, it has discouraged some students at all levels, from anywhere, and some academics at all levels, from anywhere, from thinking that the UK might still be somewhere that they can learn about and reflect on the development of EU law.

Some of my colleagues from different institutions across the UK have worked and continue to work right in the Brexit epicentre. They have worked – heroically, in my view – to communicate what the EU and its legal order are about, and to various UK publics, notwithstanding the high personal price that has often been paid for doing that work.[1] Abused and threatened just for doing their jobs. Their sense of vocational purpose and their professional and personal resilience astound me.

So, how do I write about Brexit in that context? Do I even want to write about it?

BREXIT FOR THIS EU-FOCUSED ACADEMIC

The topic that I was given invites me to think more about the intellectual impact of Brexit than its other dimensions. I am not sure, though, that the different strands of Brexit's impact can be neatly disentangled – or even that they should be. I will come back to this point again below.

The first set of questions that I asked myself was: *did* I write about Brexit, and why? The answer is yes, I did – but only to an extent.

It was different for others. For many EU legal academics based at UK institutions, Brexit provided very direct research and writing impetus. Brexit has been the object of their work on its own terms. That has not been my own experience, and I think that the reasons for my relatively limited engagement with Brexit in my academic writing are connected to *why* I wrote about it when I have done so.[2]

In the first place, the 'why' for me was more about what the legal

1 See, for example, examples of the shocking abuse that Professor Michael Dougan (University of Liverpool) received on a constant basis because of his public engagement work on Brexit, set out in the 'Introduction' to M Dougan (ed), *The UK after Brexit: Legal and Policy Challenges* (Intersentia 2017).

2 On 'why' we write, see more generally in this series, D Sheehan, 'Academic writing: craft, scholarship and finding the time' (2025) 76(RS) Northern Ireland Legal Quarterly, 40–49, 40–43.

dimensions of Brexit meant for research questions that had either interested me already or taken shape later on without Brexit as the catalyst: research questions where Brexit was one part of something but not the driver of the work. I am interested in questions about the distinctiveness of the EU legal order, for example; and the extent to which law places boundaries around political choices; and how the EU relates to other legal orders, especially those proximate to it. I have written about Brexit as a dimension of those questions.[3] I am interested in what it means to be a citizen of the EU as well as what it means to lose that identity, so I wrote about the ruling of the Court of Justice in the *Préfet du Gers* case,[4] which confirmed that both the status and the rights conferred by EU citizenship were lost by British nationals – that Brexit really did mean Brexit for these former EU citizens.[5]

Second, and relatedly, my Brexit-related writing is premised on what Brexit meant for the EU and for EU law – and for the continuing development of the EU legal order. In my academic writing, I did not focus on the implications of Brexit for domestic law in the UK or elsewhere.

Why not? Because I decided not to. And I decided not to because, rightly or wrongly, I want to continue to contribute to the field that I have studied for more than three decades.

I did not want to change my academic identity because of Brexit; because of the external event itself. I wanted to explore that event and acknowledge its many consequences in consideration of the integrity and the evolution of the EU legal order. Fundamentally, I am interested in how EU law has changed as a result of Brexit. So I wrote about that, characterising Brexit as 'one' change – a significant change for sure, but situated alongside how the EU legal order has handled other significant events too, like the Eurozone crisis and the Covid-19 pandemic. The EU legal order is the place where I focus my thinking and my writing. It is where my 'sense of wonder' lies.[6] And Brexit did not change that. Well – not on the surface of things at least.

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3 N Nic Shuibhne, 'Did Brexit change EU law?' (2021) 74 Current Legal Problems 195–234.

4 Case C-673/20 *Préfet du Gers*, EU:C:2022:449.

5 'Protecting the legal heritage of former Union citizens: *EP v Préfet du Gers*' (2023) 60 Common Market Law Review 475; '"What" are former citizens of the European Union? Articulating the implications of a new legal status' in A Bouveresse, A Iliopoulou-Penot and J Rondu (eds), *La citoyenneté européenne: quelle valeur ajoutée? European Citizenship: What Added Value?* (Bruylant 2023) 89.

6 M Valverde, 'How the academy negatively affects writing practice' (2025) 76(RS) Northern Ireland Legal Quarterly 1–8, 7.

BREXIT AND ACADEMIC IDENTITY IN THE UK

Brexit did force academics working on EU law in the UK to reflect on academic identity – on who we are as academic thinkers and writers, and on who we want to be as such. It forced us to step back and to consider much more *what* we are writing and *why* we are writing it.

In a general sense, I sincerely hope that other legal academics never have to experience an existential threat to their entire subject community in the UK that will prompt them to *have to* reflect on who they are as academics.

But even if the catalyst of Brexit has been difficult for EU-focused researchers, the process itself – the reminder to reflect on academic identity and academic writing – can be a good and useful thing. I am not sure that we do it often enough except for when we are provoked to do it by external factors such as applying for a different position or for a promotion.

For some colleagues in EU legal studies in the UK, Brexit changed their academic identity completely. It changed how they describe themselves – reorienting identities around public law or international law or commercial law or global law or environmental law or whatever other kind of law they consider aligns best with their academic interests. That changed, in turn, what they write.

For some, changing academic direction in this way was a choice – a free choice about their own academic identity and thus the academic writing that they wish to do now and into the future.

For others, however, it was not a choice at all. It was driven more by institutional reprioritisation and/or available opportunities in the UK academic job market and/or fears about career progression by staying in the UK. And there were external forces at play too, especially a sense of futility – a sense that EU legal academics based in the UK are seen from outside as providers now, or at least more than previously, of (only) a UK perspective. And if that is the perception, what is the point of being, of even trying to be, an EU-focused academic in the UK anymore?

I have to emphasise that I could undertake reflection on my own academic identity and academic writing from a position of enormous privilege. I work at an institution that has critical mass in terms of both staff and students to make the continuation of my work on the EU legal order possible – to make it feasible. I am protected by a wider institutional culture that supports what I and my colleagues do in its agreement that pursuing EU-related work in the UK matters – that it *still* matters. I have also been doing my own academic work for long enough to have become part of a meaningful EU law community beyond the UK that will, I think and I hope, continue to appreciate that my perspective on the EU and its legal order is not jurisdiction specific.

In all of this, I am extremely fortunate. And I know it. But I know too that fortunes can change. I take none of it for granted.

For many others, even though the sector strives to nurture and value academic freedom – even though it is designed around that aim – being forced to change what they do, and thus what they write, has been the inescapable reality of Brexit. They constructed new identities because they have no choice. They lost their freedom.

THE RESEARCH–TEACHING NEXUS

It is also important to consider the relationship between what we teach and what we write.

At its best, this is a richly mutually productive relationship. It is truly wonderful when we can engage in research-led teaching. It is also important and hugely beneficial to undertake teaching-led research. Where we can through our teaching learn new literatures ourselves alongside our students. Where we can, through that process of mutual exploration, chart new paths of thinking and produce new questions for our writing.

For example, with my students in the EU Law Honours: Foundations course over the autumn of 2024, I set out some tentative thoughts not only about the *rule* of law but about the *role* of law. We studied EU law on its own terms but we used it, too, as an example of a created legal system; a manufactured one. We questioned things. We linked things. Very often, what they said surprised me.

And those weeks made me want to write. They made me want to write something about the simultaneous distinctiveness and normal 'law-ness' of EU law and to explore that paradox in the context of the growing vulnerability of transnational and international law more generally. I hope to complete some work on these themes over the coming months. There are definite links in the emerging paper to what I already wrote about Brexit in terms of what we could observe about both the specialness and ordinariness of the EU legal order through the EU's response to Brexit. But the newer work moves my writing into different terrain, more recent developments in the world squashing the significance of Brexit in EU legal terms.

We cannot synergise our teaching and our research all of the time. We have commitments to our institutions that require both a wider and thinner spread of expertise in terms of our expected teaching contribution. But when we can do it, it represents the integrity and interconnectedness of the different parts of our academic roles at its very best.

If, in the UK, academics will have less scope to teach (any) EU law even if they retain the formal freedom to write about it, a type of constraint is instituted that ruptures an essential quality of academic life. It is a rupture that splits the academic person in two, making what they are doing for one

fundamental part of their job more sharply detached from what they are doing for another fundamental part of it.

Thus, on top of the diminution of EU scholars as a community within UK institutions, Brexit also dilutes (and in some cases entirely removes) the productive synergies between teaching and research. It renders the lone scholar more the lonely scholar in this sense.

How will colleagues in such situations find, and find again and again, the intellectual energy to drive their research forward?

There are ways, of course, such as engaging as much as we possibly can with the EU-focused academic community beyond the UK as a necessary support system. I have consistently reached out to academic friends beyond the UK to talk through ideas or to read draft papers. But, like much else after Brexit, it will take ongoing effort to continue to do it and, as I have mentioned already above, to persuade the non-UK community that we still have contributions to make. How many will still want to make those efforts as time goes on? And given sectoral financial pressures, how many will have the means, very practically, to be able to do it effectively?

A second strategy is to craft research plans that entail applications for funding with the aim of building more community around us here within the UK – where we are. This option is not available to everyone. I know that. And even when it is, funding applications, including very good ones, will not necessarily be successful.

But: there is hope and sometimes we need to remember that too. I have been extremely fortunate to secure research project funding from the Leverhulme Trust for work on the unwritten principles that drive the EU's constitution. I was advised by some colleagues before I applied to make the project more UK in focus. I took the risk of not doing so. I know that must have been a risk. But it would not have been authentic for me to have done it.

Happily, the Trust's investment in EU-focused work has created postdoctoral and PhD positions at my institution, growing and deepening our existing community of EU legal scholars. It is temporary relief, of course. Funded projects are time-limited by nature. But when we are lucky enough to be able to shape them, it does mean that we can make time and space and that we can support early career researchers to carry on writing about EU law from within the UK. Not only that: these researchers bring with them the vital intellectual energy reserves and freshness of perspective that characterises the best doctoral and postdoctoral work. Re-energising us in turn.

WRITING ABOUT A TOPIC THAT CUTS TO THE CORE – OF WHAT WE DO, BUT ALSO OF WHO WE ARE

What is critical perspective?

This is something that I have asked myself and thought about so often since Brexit. As I write this article, looking around at the world around us in a more general way, the question seems even more and not less resonant since 2016.

At a basic level, academics do all kinds of writing for multiple audiences – we write, variously, for students, for other researchers, for practitioners, for decision-makers, for the public. We produce many different kinds of outputs, and we disseminate them across many different platforms.

Sometimes, as in this series, we are asked very directly for more personal reflections. That task is clear about what we can then be in the writing – we can be personal. Indeed, for a series like this, we should be.

When we write short pieces, for online blogs or opinion-based symposia for example, what are we doing then? We might write short pieces to explain the law – to describe and communicate a new legal development, for example. We also write short opinion pieces, which often, once again, lean into a more personal style. We articulate the degree of us-ness through the writing itself. I think. I believe. I consider. And so on.

In our 'academic writing' more generally, what are we doing? As legal academics, I think that we are aiming, fundamentally, to construct and communicate a defensible argument about the law and/or its institutions. We root our claims in the law itself and in relevant scholarship, which include but are by no means confined to legal literatures. We try to add value to existing thought. Perhaps we seek to offer us-ness here by suggesting a different take on something. We explain why we think that matters. Why something that we write about matters can be expressed in different ways. It might matter in terms of adding our own perspective to the existing academic debates. It might matter to the mobilisation of certain communities or to the reform of the law.

But what about when we are writing about something that matters *to us*? Where then is the line between personal opinion and academic argument, and how do we navigate it? What matters most in academic writing like that: 'staying' on the non-personal side of the line or plainly articulating where we are standing in relation to it?[7] Does Brexit bring something particularly new or sensitive to answering those questions?

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7 See further on the nature of the 'personal' in academic writing, R Cotterell, 'The craft of writing in legal scholarship' (2025) 6(RS) Northern Ireland Legal Quarterly 59–67, 59.

Brexit was so overtly and deeply divisive that it would be disingenuous for any of us to suggest that we do not find ourselves on one side or the other of what has happened. This is as true for the academic as any other affected person. Thus, linking back to the comments above about the academic identity reflection process that Brexit brought about, I cannot pretend that Brexit was not in many respects, and as I have acknowledged, profoundly and acutely personal for me. It brought to the surface questions that were probably always there but implicit before. Questions that were under the surface, not screaming for attention.

That has changed. What do I think about the EU? What do I think about its principal stated aim of more closely integrating the peoples of Europe? What do I think about how the EU institutions go about achieving that? What do I think about the relationship between the EU and its member states? And the relationship between the EU and the peoples of Europe, whether they are EU citizens or not? What do I think about regional integration in a connected world, in the changing world?

Questions of this nature have intensified for me in recent years. And they have spread, even more recently, to questions about the nature of security, defence and (given my nationality) neutrality in an unstable geopolitical global environment – itself under sharp threat in terms of the objectives and the structures of multilateralism. Law is fragmenting. Law is being ignored. What I thought about law can no longer be taken for granted. How do I write about that in my work? Should I write about it in my work? Do I want to write about it in my work?

But I must admit that it is more than this too. It is more than this exercise of the mind. I must admit that Brexit has forced me to confront not only what I *think* about the EU. It has forced me to consider how I *feel* about it. That Brexit is emotional as much as personal.

To what degree, if any, should my developing thoughts and conclusions (of a sort) on the more personal and emotional dimensions of Brexit feature in my academic writing? Is articulation of these aspects enough or should my academic writing be guarded more by distance from emotion through some attempt to omit it?

To tune the academic voice is not easy when writing about something like Brexit.

My close academic friend and previous contributor to this series, Graeme Laurie, reminds me often to do the essence of my role when I write – just *profess*, he encourages.

I try to do that. I try to do it more now than I did before. And the 'easy' answer here about professing in the context of Brexit is to resort to the coordinates of legal method to guarantee that the writing is appropriately academic. As I mentioned at the outset, all

law takes place in a context and, thus, legal writing takes place in a context too. Legal method provides the standards and the tools that academic writers use to shape and to express their ideas with proper rigour. To establish empirical findings appropriately and to distinguish empirical claims or findings from other forms of scholarship. To provide hooks for peer reviewers. To enable the writing to defend itself.

A piece of academic writing needs more than robust methods, of course. Most basically, it needs a good argument too – an argument that adds value, an argument that matters. And making an argument requires that we take a stance.

But still: these answers are not quite enough because writing about the EU and its legal order since Brexit is more complicated than what legal method and good argument will yield.

Since Brexit, scholars – not only but especially those based in the UK – sometimes feel inhibited now from criticising aspects of the EU and its law. There is a fear for UK-based scholars in particular that their critique will not be taken seriously – *of course you would say that now, wouldn't you?* Or a fear that critical perspectives might be perceived as disloyal or damaging. An argument that puts forward well-founded and robust reasons for closer integration might, on the other hand, be criticised for 'promoting' the EU. For not accepting the reality of the UK's post-2016 world – for not respecting the will of the people. For not accepting that Brexit means Brexit.

Since the pandemic, I have been working my way backwards through the 'Desert Island Discs' archive on *BBC Sounds*. Purely by chance in the middle of thinking about (and before the writing of) this piece, I listened to the episode featuring Tony Blair from November 1996 when he was leader of the opposition.[8] Sue Lawley pushed him quite hard at one point to concede that, as a politician, his work and his vision constituted more of a rational expedition than an emotional one.

Do we have to choose, was his response? Can it not be both?

Academics are only people too in the end. We have worlds beyond our academic world. Sometimes those worlds collide. We have views about that. Must these views be hidden? But, even more fundamentally, ask yourselves – why would we choose to hide them? And why would 'good' academic writing require that we hide them?

I mentioned choice earlier. And I think that choice is probably key in all of this.

What do I want to write about, and why? Where then is the best place to publish the writings –

8 'Desert Island Discs' (*BBC Sounds* 29 November 1996). Comments that Boris Johnson had made already in his November 2005 episode make for vital listening for anyone interested in his position or motivation on Brexit: 'Desert Island Discs' (*BBC Sounds* 5 November 2005).

which can have different aims and purposes – that result from the making of that choice?

If I *choose* to make a more personal argument, what I think then is that clear writing is what is absolutely essential. Writing that makes it *clear* not only what I am saying but also why I am saying it. Writing that sets out my reasons for saying it.

Let the readers make their judgements in the end.

And let me say this as plainly as I can: I do not think that EU academic lawyers in the UK *should* write about Brexit. That is each individual researcher's choice (in as much as they have the institutional space in which to make it within the UK now – a space that should, I would argue, be protected to the full extent that it can be).

Not to write though: not to write at all, not to profess; not to feel that we can say something in the context of the realities crushing in around us at the present time, eroding the certainty and the structures and the dignity that defines the law or so we thought – as scholars of any kind of law, saying nothing seems more damaging than saying something through our academic writing. In my opinion anyway.