Brexit shows both the importance of the British Political Tradition and the extent to which it is under threat

September 13, 2019

By Democratic Audit UK 13/09/2019 Read More →

Matt Hall *and* **David Marsh** *discuss what recent developments in British politics, especially since the election of Boris Johnson, tell us about the British Political Tradition – a view of democracy that emphasises a limited liberal conception of representation, which focuses on the importance of free and fair elections, and a conservative conception of responsibility based on the idea that the 'executive knows best'.*

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We have argued before that the British Political Tradition has been increasingly challenged by contemporary developments. Previously, we focused on three challenges: the Scottish question; the European question, culminating in Brexit; and the rise of anti-politics, perhaps better seen as a decline of trust in the political elite. We also emphasised that the British political elites' response to those challenges was, almost inevitably, to defend the British Political Tradition; although this response was, at best, problematic. Here, we want to return to this last issue considering how this political tradition has played out in relation to Brexit since the referendum. There are many issues we could focus upon, but here we restrict ourselves to two.

First, Gina Miller's successful 2016 court case against the British government over its authority to implement Brexit without Parliament's approval shows both the role and the limitations of the British Political Tradition, a point which extant commentary ignores. The key question here is why the government thought it could win this case, because it

shows the extent to which the British Political Tradition is inscribed in political practice. The court's decision revolved around whether the government was entitled to use the Crown's prerogative powers to give notice under Article 50 of the Treaty on European Union for the United Kingdom to cease to be a member of the European Union. The High Court held that the government did not have that power, because it would remove a series of rights created by Acts of Parliament, which under the principle of *parliamentary sovereignty* only Parliament could take away. It is true that on appeal three (of 11) Supreme Court judges dissented from this decision, which again shows the powerful pull of the British Political Tradition. However, for us, the main lesson from this case is that the executive has been so use to dominating Parliament that it assumed it would win the case.

This executive view has persisted, as, at every stage, it has tried to limit the role of Parliament in the Brexit process. However, the second issue we wish to briefly explore concerns the use of the term 'democracy' in that process. The claim of the executive, and many others, is that the referendum showed the 'will of the people', thus giving democratic legitimacy to the decision to leave the EU. In contrast, the claim of a large number, probably a small majority, of MPs is that, in a representative democracy, Parliament should have the final say, although for many of these MPs any decision should respect the referendum vote. On the surface, the debate seems to involve two positions which, in different ways, are opposed to the British Political Tradition. The executive's position seems to evoke a more participatory view of democracy, while Parliament's view evokes an active role for MPs in scrutinising and holding to account the executive.

Of course, the reality is different, particularly as regards the executive's view. The referendum took place, not because the executive wanted to listen to 'the people', but because David Cameron saw it as a way of resolving a continuing problem in the Conservative Party over Europe; and of course, he expected a Remain vote. Cameron's commitment to the British Political Tradition was clearly evident in the referendum campaign. The Remain side didn't take account of what citizens thought; rather, they relied on a series of 'experts', telling citizens how they should vote. Unsurprisingly, this was counter-productive because a feature of contemporary politics has been a significant increase in distrust of 'experts' of all sorts.

The executive has continued to try to steer the Brexit process, as is amply reflected in the current debacle over no deal. Boris Johnson, at one and the same time, appeals to the need to fulfil the will of the people, while attempting to curtail Parliament's role, to the extent of a prorogation of Parliament for five weeks. It is hard not to conclude that his main aim is to force a general election where he will pose as the champion of the will of the people against both Parliament, as unwilling to support Brexit, and the EU, as obdurate and unwilling to compromise. In essence, he is using arguments about democracy to preserve executive power.

In our view then, the Brexit process shows both the continued importance of the British Political Tradition *and* the extent to which it is under threat. The whole process has been a challenge to executive dominance and, given the debacle that it has proved, it is difficult to hold to a view that 'government knows best'. Moreover, with parliamentarians seeking

to represent their constituents and the national interest against an executive clearly convinced that 'they know best' when it comes to Brexit, we may be seeing an increasingly destabilised British Political Tradition.

However, the ideas of this tradition, inscribed as they have been in the institutions, processes and practices of British politics remain powerful. Government has tried to assert its authority over Parliament, to hold to the idea of strong government so crucial to the British Political Tradition, but, to date, success has been conspicuous by its absence. However, if the Conservatives win the inevitable election, then executive dominance, and the British Political Tradition, will be reasserted, although probably not for long, given the threat of a second Scottish independence referendum and the continued distrust in politics and politicians.

This raises another key point. The British Political Tradition has not only shaped the institutions, processes and practices of government; it has also shaped the views of politicians, civil servants and, crucially here, 'the people'. Indeed, the Hansard Society's 2019 Audit of Political Engagement found that 54% of their respondents agreed that Britain needs a strong leader, willing to break the rules. In the same vein, 42% agreed that it would be better if the government didn't have to worry so much about parliamentary votes when tackling the country's problems. In contrast, 55% think that big questions should be put more often to the public in referenda. These figures show both the role of the British Political Tradition and its emphasis on the need for strong government, but also the role of populism, and its emphasis on strong leadership and the role of 'the people'.

Where does this leave us? In a very difficult position. In this context, we need a system based upon two different, but related, balanced interactions: one between the legislature and the executive; and the other between representative and participatory democracy. To achieve the first balance, we need to return to the issue of constitutional reform, including changing the electoral system, to make it more representative, and to strengthen freedom of information, to make it easier to hold government accountable. To achieve the second balance, we need, not referenda, but, rather, increased co-production of policy and implementation. In addition, we would suggest that we need to take the issue of subsidiarity more seriously.

This article gives the views of the authors, and not the position of Democratic Audit. It was first published on the <u>LSE British Politics and Policy blog</u>.

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