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Brexit & UK Environmental Policy: Can Dirty Man of Europe stay clean without EU?

The intended referendum on whether the UK will leave the European Union brings up a large number of issues about the UK's relationship with the European Union (EU) and of the merits and demerits of EU membership (Burns, 2015). On 23rd January 2013 David Cameron gave his highly awaited European speech in which he announced his intention to hold a referendum on UK's membership of the EU with a direct 'in/out' question (Burns, 2015). The Environmental Audit Committee announced in October 2015 that it is holding an inquiry to plot the extent to which EU environmental objectives and policies have successfully tackled environmental issues in the UK (EAC, 2015). This will provide evidence ahead of the referendum on EU membership that the Government has planned to hold by the end of 2017, renegotiating its membership terms (EUC, 2015).

UK environmental policy has been profoundly impacted by its membership of EU. UK earned the unappealing reputation for being the 'Dirty Man of Europe' in the 1970s and 80s, having the highest sulphur dioxide emissions in the region and its seas were similar to open sewers as it pumped human effluent into them as part of the 'dilute and disperse' approach to pollution control (Burns, 2015).

The environment was placed explicitly as a legal EU competence in the *Single European Act* of 1986, and energy in the Lisbon Treaty of 2008 (Kulovesi, 2013). In order to operationalize a common market, EU adopted several environmental measures way before the formation of any specific legal base. EU environmental law and actions are based on the principles laid down in the Single European Act. Thus, the environment is a thematic area with highly intertwined EU and the UK laws. The possible environmental impacts of EU-exit majorly rely upon on whether it is decided that the UK government plans to change or maintain current standards and regulations (Miller, 2015). Ostensibly, exit from the EU would lead to a retreat towards conventional legislations and procedures, providing UK a chance to free itself from the EU straitjacket and have some leeway in a number of keys areas to introduce more flexible options (Murray, 2014). Any considerable watering down of policy targets can be politically sensitive.

Ascertaining the public interest

Not heartedly welcomed, exiting EU will be viewed by many environmental supporters as a backward step. The Centre for European Policy Studies (CEPS) stresses that the outcomes of a speculative withdrawal from the EU would trade off the UK's capacity to effectively lead and control policy in the region (Miller, 2013). It also considers that this would leave the UK susceptible to abiding by internal and external commitments of EU as a requisite of sustained membership of the common market, but without any decision making abilities.

The Government's Review of the Balance of Competences highlights the struggle in ascertaining the public interest that should form policies and strategies on environmental areas. It suggests that 'environment and climate change is a contested area of policy both in the UK, and across the EU, where the interests of industry and of individuals are inevitably sometimes different' (UK-Government, 2014).

The repercussions of EU withdrawal

The International, regional and local influences have been entwined over decades and have united to formulate policies with multiple origins. The formation of EU law shows the potential of actions of supporters and the development of agreements at regional level leading to common policy reforms which may not have been initially anticipated by the member states because of their varied interests.

Providentially, the European Union is not a spreading cancer and nor is its involvement certainly malign or resisted by dominant units of the British populace. Hence, although elimination of EU law is not impossible and UK is not a dying patient, complete deletion of law, and hasty exit from the EU, is plainly not a real-world option (North, 2015). Most of all, though, no changes should be made unless or until the clear picture of what is involved is visible, allowing identification of the possible concerns of removal, gains and losses.

It would be problematic for the UK to greatly withdraw from EU regulations in some cases as the *Birds and Habitats Directives* as they were profoundly set on the UK's historic legislation for protected areas (Miller, 2015). The UK has normally adopted more rigorous requirements that other Member States on animal welfare with related legislation being over century old in the UK. In other cases, EU law has led to or partially augmented UK action, often originated by Finland, Germany and Sweden (which are viewed as being more 'environmentally progressive') (Miller, 2015). A crucial example is the *Urban Waste Water Treatment Directive*, known for restricting the release of raw sewage into the sea and rivers. On air pollution, the UK has been in breach of *Air Quality Standards Directive* limits in some areas (EU, 2014). The *Industrial Emissions Directive* is also expected to impact coal fired power stations which have to abide by the new nitrogen dioxide emissions standards by 2023 at the latest (Miller, 2015).

It is unclear whether the standards proclaimed by EU would be reversed upon the possible exit. It would provide an opportunity to change local environmental objectives and there would be relatively faster judicial processing to inform and challenge environmental policies (Miller, 2015). However, according to the Balance of Competencies Review Environment and Climate Change report it is in "the UK's national interest for the EU to have a degree of competence in the broad areas of environment and climate change because of the

advantages that this brings for the Single Market and environmental protection" (UK-Government, 2014). Despite this there are apprehensions about extending this capability and whether the EU has always conformed to subsidiarity and proportionality.

Joining the European Economic Area (EEA)

The examples of Norway, Liechtenstein, Switzerland and Iceland have been highlighted as showing the future projections for a UK outside the EU. These states (with the exception of Switzerland) are members of the EEA and as such enjoy preferential access to the Single European Market (Thompson, 2013). In order to get preferential access to the EU market they do have to abide by the acquis communautaire – the regulations leading the operation of the single market, including various environmental regulations - but with some significant exceptions (Burns, 2015). Whilst the UK will need to submit to a considerable lot of the similar EU regulations that are currently in place some of the environmentally important policies are currently omitted from the environmental policies of EEA (Burns, 2015), including directives on bathing water, birds, habitats, shellfish waters, etc. Therefore, membership of the EEA will imply that the laws of European Union will never again be binding for the UK government by in these territories.

Right now, EU Law is superior to the national law, calling for implementation of European Union Law in its essence or facing litigation. Upon EU Exit, the government will have a choice either to repeal or amend the adopted acts that are not included in the European Economic Area Agreement (Burns, 2015). It is therefore possible that the standards of environmental protection maintained due to current positioning in the EU will be debilitated depending upon the inclinations of the UK government.

Exiting the European Union wholly

In case of complete exit from the EU, UK will have more to lose than gain from business and global standing perspectives. Major international businesses presently positioned in the UK that seek common European market access are likely to move their operations elsewhere in the region if UK chooses to exit from EU. Roger Carr states that "Departure would necessitate multiple bilateral agreements, frustrate free trade and damage our export performance in the medium term" (Carr, 2013). An economist from the Environmental Services Association, Jacob Hyler stated that an EU exit "would leave a huge void for the industry as it would be unclear to what degree we would retain any elements of the European path towards higher levels of environmental sustainability" and "billions of pounds of fresh investment in green jobs and growth [could dry] up overnight" (Roberts, 2013).

Renegotiating the EU membership terms

David Cameron announced that his favoured choice is to successfully renegotiate EU membership terms and he will be then campaign for staying in the EU (Helm, 2015). Yet it appears improbable that the other European states will allow this type of 'pick and mix' approach to strategies and regulations as to letting the UK involve in such approaches would open a Pandora's Box – with other states forwarding their own list of demands (Burns, 2015). Possibly most critical is the concern that until the 2017 referendum, doubt will prevail over the scope of the future regulatory framework in the UK.

Conclusion

EU membership has firmed the pathway for UK's environment to become cleaner and healthier; and has given an opportunity to the business community to inform strategies and policies for EU and to track the advantages that environment-focussed policies generate. This membership has paved the role of the UK as a leader on environmental issues at the regional and global levels.

The referendum is a narrowly-thought through policy with no major deliberation over the potential repercussions of a UK departure for its environmental status at all levels. None of the member states has ever recalled its membership since its inception so there are numerous questions related to the future policy design. The wording of David Camron's question has become critical – in or out is simply insufficient. The available alternatives and the possible repercussions need to be delineated upon so that the public can make an informed choice.

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