

**THE SOVEREIGNTY PARADOX:  
BREXIT'S TERRITORIAL CONSEQUENCES FOR  
GIBRALTAR, SCOTLAND AND NORTHERN IRELAND**

Jaume Castan Pinos and Jeremy Sacramento

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## **ABSTRACT**

The United Kingdom formally left the European Union on 31 January 2020, following the Brexit referendum of June 2016. One of the central arguments used by 'leave' supporters in the run up to the referendum concerned UK sovereignty in the sense of 'taking back control' and restoring decision-making powers over the country's affairs. The UK's departure from the bloc, however, has revealed a striking paradox in that it appears to compromise the most fundamental aspect of sovereignty: territorial integrity. This working paper argues that Brexit has revived territorial debates in the British peripheries that had ostensibly been settled prior to the referendum. In order to illustrate this argument, our analysis draws on three cases and their respective territorial challenges. Namely, secession in Scotland, Spanish annexation of Gibraltar, and the reunification of Ireland. While we do not conclude that Brexit will inevitably lead to the UK's territorial disintegration, we do claim that it has created the essential conditions for these changes to materialise.

## INTRODUCTION

The United Kingdom formally left the European Union on 31 January 2020, following the in/out referendum result of June 2016. While territorial questions were largely neglected during the referendum campaign, the UK's own union has now become one of the country's greatest predicaments. Political decisions inevitably trigger political consequences that, in many cases, are unintended and unwanted. It is becoming increasingly obvious that Brexit has unleashed various negative and unintended effects which were not considered or acknowledged, at least not sufficiently, by the proponents of the British withdrawal from the EU during the referendum campaign. Chief amongst these is the potential destabilisation of the UK's territorial position in Scotland, Gibraltar and Northern Ireland.

Although the withdrawal element of the process has now (as of March 2020) been effectuated, at the time of writing most details about the Future Agreement remain unclear, and of course this might have critical implications for the territorial consequences discussed here. We therefore acknowledge the difficulty of analysing a situation which is ongoing and susceptible to transformations. Despite these challenges, we are confident that our examination will be able to shed light on a dimension of Brexit which was largely neglected prior to the referendum.

One of the central arguments used by 'Leave' supporters during the referendum was the restoration of sovereignty in the sense of 'taking back control' and restoring the UK's decision-making powers. Indeed, those advocating Brexit argued that leaving the European Union would 'save' the UK's sovereignty, arguing that the UK would be able gain control over crucial policies with respect to the economy, migration and justice (e.g. Green et al., 2016). The paradox is that the British withdrawal from the EU may have compromised what is arguably the most fundamental aspect of sovereignty: territorial integrity. The core argument of this working paper is that Brexit has revived territorial debates in the British peripheries that seemed to have been settled prior to the referendum. Interestingly, in all these territories, the remain option won by considerable margins: Northern Ireland 56%, Scotland 62%, and Gibraltar, where the remain option was supported by an astounding 96% of the voters (BBC, 2016).

We therefore agree with Bogdanor when he claims that 'Brexit involves not just a new relationship between Britain and the Continent, but perhaps also a new relationship between the various components of the United Kingdom' (Bogdanor, 2019: xi). It is important to note that, since the Acts of Union of 1707 and 1800, the UK's territorial composition has suffered varying degrees of precariousness among and between the constituent nations. This is particularly visible in the three territories analysed in this working paper. At its peak, this weak territorial equilibrium saw the partition of Ireland in 1921, the decades-long political violence that succeeded it and a resurgent Scottish nationalism. In Gibraltar similarly, the Spanish claim to sovereignty has persisted, though unevenly, since the territory's cession to the British Crown under the terms of the Treaty of Utrecht of 1713. These territorial questions only saw some closure in roughly the

last two decades, with the 1998 Good Friday Agreement between the UK and the Republic of Ireland ending the so-called 'Troubles', the Gibraltar joint sovereignty referendum of 2002, where 98% of Gibraltarians rejected the measure in favour of remaining British and blunted the Spanish claim, and the independence referendum in Scotland in 2014, which dashed the ambitions of Scottish nationalists in a democratic vote. In essence, prior to Brexit, the territorial status quo in the British peripheries had been settled, or at least it seemed to have been.

This territorial consensus has necessarily been put in jeopardy by Brexit, which has triggered unintended territorial consequences in the shape of a paradox over sovereignty. In effect, the British withdrawal from the European Union, enacted in January 2020, necessarily unravels this status quo by reanimating the respective actors to pursue their desired ends, namely the Scottish National Party's (SNP) ambitions for independence, Spain's claim to sovereignty over Gibraltar and the proponents of a politically united Ireland. The argument of this paper is that this situation has arisen because these territorial questions have been inextricably intertwined with membership of the EU. It could be argued that EU membership has invisible effects on member states that only become apparent once they withdraw from it. In other words, membership of the EU prompts political stability and, as such, it perpetuates and reinforces the territorial status quo. As a territorially stabilising factor the EU may not be very visible at first glance, but it appears to play a pivotal role in multinational states such as the UK or Spain.

In that regard, it is worth remembering that, during the Scottish independence referendum of 2014, the threat of having to reapply for EU membership was used by the *Better Together* campaign to argue against secession. This is in no way exceptional, as it has also been used by other states that have been challenged by secessionist movements. The scaremongering argument of a prospectively independent Catalonia being expelled from the EU and therefore having to reapply for EU membership has been used recurrently by successive Spanish governments to persuade Catalans to support Spanish unity. It could therefore be argued that Spain has used the EU instrumentally as a territorially stabilising factor. In the case of Gibraltar, EU membership meant Spain having to respect European obligations and freedoms, which in turn meant a curtailment of Madrid's sovereignty ambitions. In the case of Northern Ireland, the EU played a positive peacemaking role during the 'Troubles', which had ameliorating effects on this 'deeply territorialised ethno-national conflict' (O'Dowd and McCall, 2008: 81). As Hayward and Murphy claim, common Irish and British membership of the EU triggered a myriad of positive developments in terms of conflict amelioration, including the bilateral adjustments of policies, cross-border cooperation and the vision of a shared future. Perhaps most importantly, it 'enabled Irish and British nationalisms to be entangled without either one being eroded' (Hayward and Murphy, 2018: 277).

With the EU variable now removed from the equation, the proponents of territorial recalibration have been given a green light. To put it poetically, the territorial Pandora's box has been reopened. In fact, the oft-cited Irish Republican dictum that 'England's difficulty is Ireland's opportunity',<sup>1</sup> which dates back to

the mid-nineteenth century, suitably describes the essence of Brexit's territorial externalities (Speake, 2015). Replace Ireland with Scotland or Spain, and the essence remains the same. Brexit, a noticeably English (and Welsh) decision, therefore, carelessly revives the territorial debates and actively creates the potential for possible territorial transformations within the UK (Henderson et al., 2016: 187). Yet despite this, the debate on territory was conspicuous by its absence in the main campaign leading up to the in/out referendum. It has been similarly absent, as a singular variable, in the otherwise abundant academic literature that has been produced in the wake of the vote.

Overwhelmingly, indeed, academic analyses have focused on the potential impact of the UK's withdrawal on all pillars of the economy, namely trade, productivity, labour and foreign direct investment (e.g. Dhingra et al., 2016; Ebell and Warren, 2016; Jafari and Britz, 2020). Similarly, there has been focus on immigration, both in the immediate impact following the vote and in modelling the likely future impact (e.g. Goodwin and Milazzo, 2017; Portes and Forte, 2017; Roots, 2018). There have also been a slew of studies on the question of parliamentary sovereignty, assessing the extent to which the UK Parliament stands to 'take back control' once withdrawal from the Union occurs (e.g. Ewing, 2017; Greer, 2018; Bogdanor, 2019;). These analyses closely resonate with the main factors attributed to the vote's result, namely the movement of people and migration, trade, and the UK's financial contributions (e.g. Vote Leave; Hobolt, 2016). Yet throughout the negotiating period these factors have been overshadowed by the territorial questions. Perhaps the pro-Remain slant in Scotland, Gibraltar and Northern Ireland can be considered a harbinger of the prominence of territory in the post-withdrawal context. It is therefore clear that territorial concerns failed to make the cut, as much in the referendum campaign as in its immediate aftermath.

The aim of this study is therefore to draw attention to the unintended territorial effects of the UK's withdrawal by examining how these territorial issues are inextricably intertwined with membership of the European Union, and thus how the withdrawal serves to re-expose the cleavages between the different actors. Our analysis concentrates on three case studies: the UK's countries of Scotland and Northern Ireland, and the British Overseas Territory of Gibraltar. These three cases entail three different types of territorial challenges: secession in Scotland, annexation by Spain in the case of Gibraltar and reunification with the Republic of Ireland in Northern Ireland. Further, these three cases reflect the centrality of the EU in their respective territorial issues. In doing so, the studies reveal the inevitability of territorial externalities as a result of alterations to the status quo caused by Brexit. We have deliberately excluded Wales from our analysis for two fundamental reasons. First, the secessionist forces in this territory, represented by the political party *Plaid Cymru*, do not currently have sufficient electoral support<sup>2</sup> to constitute a territorial challenge. Secondly, the majority of voters in Wales voted 'leave', with practically the same percentages as in England, meaning that Welsh secessionists cannot use the differential voting pattern in Brexit as an argument for altering the territorial status quo.

It is important to bear in mind that borders are human creations and are therefore exposed to human transformations – they cannot be taken for granted. The unintended territorial consequences or aftershocks produced by Brexit illustrate the susceptibility of the notion of territory to political changes. It could be argued that ignoring this susceptibility may have come at a price, in this case a territorial price.

## **SCOTLAND: A DOOR OPEN TO A SECOND REFERENDUM?**

The first case in our empirical analysis is Scotland. The question of Scotland's territoriality centres on the ambitions of the Scottish pro-independence movement to secede from the UK. In this case, therefore, the territorial consequence emerges from an internal challenge to UK sovereignty with no influence from external actors. The case here is that the independence question was arguably settled 'for a generation'<sup>3</sup> following the independence referendum, agreed with the British government, that took place just 21 months prior to the Brexit vote. The September 2014 plebiscite on possible Scottish secession from the UK was the product of a notable upsurge in Scottish nationalism and secessionism, manifested through electoral support for the pro-independence SNP, which has had the most seats in the Scottish Parliament since 2007. Keating and McEwen argue that their spectacular results in 2011, when they obtained an absolute majority, were not due to their stand on independence but despite it (Keating and McEwen, 2017). That is, their growth in popularity was connected with their popular socially progressive policies and public management rather than their, at least up until that point, ill-defined independence project, which consistently enjoyed less support than the 'devolution' option.

At any rate, the self-determination referendum had been one of the SNP's central electoral promises, or more precisely, 'independence subject to a referendum', stressing the Scottish people's right to decide (Elias, 2019: 11). In October 2012, shortly after the SNP had achieved its parliamentary majority in 2011, the British Prime Minister at the time, David Cameron, agreed with Scottish legislators to organise a Scottish independence referendum for 2014. The referendum results, in which 55% of Scots voted against independence, were a clear defeat for Scottish nationalists in general and the SNP in particular. Interestingly, the referendum result led to Alex Salmond's resignation as Scottish First Minister, for whom independence had become the *causa prima*, but not to the abandonment of the independence goal by the SNP as a party. In this context, Brexit presented a dilemma with a difficult solution, given especially that the Scottish electorate voted in favour of remaining in the EU (by 62%). This effectively meant that the two results were in inevitable conflict with each other. In other words, Brexit's territorial externalities regarding Scotland rest in this antagonism between continuing to form part of the United Kingdom on the one hand and the wish to remain in the EU on the other.

For the SNP, the British electorate's decision to leave the European Union was arguably a blessing in disguise in so far as it presented an opportunity to revive the spectre of a second independence vote in defiance of the 'for a generation' commitment. In this way, the pro-independence sections of the Scottish electorate fell squarely in line with O'Connell's dictum in that England's problems were now Scotland's opportunities. Nicola Sturgeon, the SNP's leader following Salmond's resignation, wasted no time in capitalising on the window of opportunity offered by Brexit. A day after the referendum, she warned that the context had fundamentally changed: 'It is a significant material change in circumstances. It's a statement of the obvious that the option of a second independence referendum must be on the table, and it is on the table' (Sturgeon, cited by Carrell, 2016). The 'statement of the obvious' Sturgeon is alluding to here corresponds to the incongruity mentioned above between Scottish voters' preference for remaining in both the UK and the EU and the role EU membership itself played in the independence referendum campaign. As mentioned above, one of the main pillars of the *Better Together* narrative during that campaign was the need for Scotland to have to reapply for re-entry into the EU in the event of independence, a claim backed up by EU officials and member states' heads of government, most emphatically Spain (BBC, 2013; BBC, 2012; Carrell and Kassam, 2013). In other words, a vote for continuing to be part of the UK was a vote for remaining in the EU.

The EU's position similarly changed materially in the aftermath of the Brexit vote. This was clearly illustrated by the unprecedented reception that the Scottish First Minister received in Brussels on 29 June 2016, when she was given the red carpet treatment and met the then President of the European Parliament, Martin Schulz, and the President of the Commission, Jean-Claude Juncker. The content of these discussions was equally significant, with Juncker indicating his readiness to discuss the permanent status of Scotland in the EU in spite of the British withdrawal (Mortimer and Johnston, 2016). Spain too has moved away from its staunch opposition to the possible membership of an independent Scotland (Andrews, 2018). The reason behind this material change is crystal clear: Scotland was no longer a bothersome region challenging the territorial integrity of a member state. Indeed, in the post-Brexit referendum era, Scotland has become a legitimate interlocutor in the eyes of the European Union. This is a historical and unprecedented achievement for a secessionist region in Europe, arguably the most successful day in Scottish paradiplomacy.<sup>4</sup> Nor would it be the last. Two days after the formal withdrawal of the UK from the EU, in an interview with the BBC, the former President of the European Council, Donald Tusk, stressed that if an independent Scotland applied for EU membership, 'emotionally, I have no doubt that everyone will be enthusiastic here in Brussels, and more generally in Europe' (BBC, 2020a). Needless to say, any such statement implicitly supporting Scottish secession would have been unthinkable prior to Brexit.

Trying to capitalise on this momentum, from the outset the Scottish Government started exploring different roads to circumventing the current conundrum. For instance, along with the Gibraltar authorities, it proposed a 'reverse Greenland' model (Macdonald and O'Leary, 2016). Using Greenland's departure in 1985 as the

only previous case of a territory withdrawing from the European bloc, the proposal suggested having only the leave-voting parts of the UK - England and Wales - withdraw from the EU, while keeping the remain-voting parts - Scotland, Northern Ireland and Gibraltar - inside the Union. This, however, cut no ice with the UK Government, which swiftly dismissed the proposal. Although it failed, the proposal reveals that, despite the rhetoric of a second independence referendum, Holyrood was in practice paying heed to electoral support for remaining in the European Union while also accepting the still fresh results of the independence vote.

At any rate, no firm commitment was made to table a second independence referendum by the SNP until the end of April 2019, when Nicola Sturgeon announced her party's intention to hold a second vote by 2021. The content of her announcement closely resonates with the argument presented here: 'I consider that a choice between Brexit and a future for Scotland *as an independent European nation* should be offered in the lifetime of this parliament' (emphasis added). The stipulated date of 2021 is similarly telling and could explain the hesitation to announce it thus far: given the confusion and uncertainty that has tainted the Brexit negotiations, both at home and in Europe, 'the political conditions are not right for another campaign to leave the UK amid so much unfolding uncertainty' (Brooks, 2018). The push for a second referendum, and hence for independence, was reinvigorated by Sturgeon in the wake of the UK's formal withdrawal from the EU on 31 January 2020, on the grounds that 'the UK that Scotland voted to be part of in 2014 ceases to exist' (Dickie, 2020). This push was accompanied by polls indicating that, for the first time since 2015, support for independence was once again in the lead (51/49) due to the fact that a considerable numbers of *remainers* had begun to back this option (Curtis, 2020).

In light of the above, it seems evident that Brexit, by fundamentally altering the territorial status quo, has paradoxically revived the territorial debate in Scotland and has galvanised the possibility of a second referendum, and therefore of secession. As Paddison and Rae put it, 'the referendum has exposed and deepened pre-existing divisions in UK society, not least territorial cleavages, and in this respect it was to amplify the "tyranny of the majority" as well as the "brutalism" of the unconstrained referendum' (Paddison and Rae, 2017: 1). Furthermore, from the European perspective, Scotland is not merely a potential new member state, it is also a punishing mechanism – a deterrence and a warning to future rebel states – that leaving the club may trigger negative consequences by compromising their territorial integrity.

## **GIBALTAR AND THE REIGNITED SPANISH SOVERIGNTY CLAIM**

The territorial dimension of the British Overseas Territory of Gibraltar emerges from Spain's well-known claim to sovereignty over 'the Rock'. Spain has maintained its irredentist claim almost since the territory was ceded to the British Crown in perpetuity under the terms of the Treaty of Utrecht (1713). However,

until Brexit the political realities of life inside the European Union had limited Spain's capacity to pursue the transfer of sovereignty over Gibraltar from the UK and had allowed the Rock to prosper economically. Consequently, Brexit, in removing this Overseas Territory from the EU, removes these limits and benefits and seemingly gives Spain's claim a new lease of life, thus exposing an intrinsic territorial consequence. However, unlike Scotland, in Gibraltar's case, with Spain as a third state, the externality involved is fully external. The UK's (and Gibraltar's) withdrawal from the European Union reignites Spain's sovereignty aspirations in two important ways. First, it hands Spain a very convenient 'carrot' in that it can use Gibraltar's pro-European sentiment, as expressed through its 96% 'remain' vote, to attempt to lure the Gibraltarians towards acceptance of joint sovereignty. Secondly, through the loss of the protections established by the European *acquis communautaire*, it also hands Spain a 'stick'. That is, it makes it possible for Spain to set the clock back to the pre-accession period, when Spain was free to impose stringent measures on Gibraltar in an attempt to coerce the population.

On the evening of 23 June, the combination of being in a different time zone and the small size of the electorate meant that Gibraltar was the first constituency to reveal the results of the referendum. The territory voted emphatically in favour of remaining in the EU, with 96% of electors ticking the 'remain' box on the ballot paper. Yet this pro-EU sentiment was demonstrably at odds with the pro-Brexit electorate in the UK, specifically England and Wales. Gibraltar therefore faced the prospect of dividing its loyalties, which, since the UK's (and Gibraltar's) accession to the EC in 1973, were one and the same. In the event, the referendum result bluntly separated these loyalties, in so doing exposing Gibraltar's and the UK's different interests. It is in these countervailing forces that Spain, to paraphrase O'Connell once again, has seen an opportunity.

Already in the lead up to the vote, Spain had made no secret of what it believed Brexit meant for its claim to sovereignty. In a radio interview three months before the vote, Foreign Minister José Manuel García Margallo clearly stated that the British withdrawal from the EU would offer Spain an opportunity to advance its sovereignty ambitions over the Rock (Radio Nacional de España, 2016; HM Government of Gibraltar, 2016a). Given this context, it is hardly surprising that the territorial question featured prominently throughout the referendum campaign in Gibraltar, a reality that contrasts with the absence of any consideration in the UK's central campaign. As mentioned above, Spain's territorial rhetoric has followed two interlinked paths: the carrot and the stick.

The carrot approach stems from Spain using its continued membership of the EU as a means to entice the people of Gibraltar into its orbit, given that membership of the EU has for the most part proved beneficial to Gibraltar. The territory became a member of the EC along with the UK in 1973 under the terms of Article 227(4) of the Treaty of Rome (now Article 355(3) of the Lisbon Treaty),<sup>5</sup> which gave Gibraltar access to the single market and to the freedom of movement of people, services and capital (European Commission, 1957). Moreover, once opened (see below), the border significantly boosted the scope for expansion of the tourism

sector, as well as allowing Gibraltar to make better use of the free movement of people to attract labour for its expanding economy (HM Government of Gibraltar, 2017). In removing this access to the single market, departure has handed Spain, a continuing member of the EU, an effective bargaining chip. Spain has extended an olive branch in the form of suggesting joint sovereignty as a means of offering Gibraltarians the best of both worlds, where Gibraltar remains (half) British but also in the EU through Spanish membership (e.g. González, 2016).<sup>6</sup> This suggestion, which over the last four years since the in/out referendum has been extended by Spanish governments of different colours, emphasises how Madrid sees the change in circumstances as a renewed opportunity to make progress with sovereignty.

Spain has complemented this 'carrot' approach with the threat of a 'stick' which focuses on exploiting the removal of the de jure and de facto protections enjoyed by Gibraltar through its membership of the Union. Most fundamentally, EU membership has given Gibraltar a platform from which to advocate, and where necessary protect, its interests against Spanish challenges, exemplified by the joint support of Gibraltar's past and present Chief Ministers for the Stronger In campaign (Stronger In, 2016). Indeed, the institutions themselves facilitated this process at times, a clear example being the EU Commission's inspection visits to the border following an increase in border checks by Spain in 2013.<sup>7</sup> The visit culminated in a report by the Commission that condemned the Spanish border measures as 'disproportionate', the result of which was a significant improvement in flow across the border (European Commission, 2013; HM Government of Gibraltar, 2016b). Clearly Brexit removes this useful weapon from Gibraltar's arsenal in the face of Spanish hostility. In the post-Brexit world, Spain can, at least in principle, freely impose restrictions on what is now a border with a non-member state as an attempt to advance its territorial position, a threat made credible given its behavior already throughout the period of negotiations.

That is, Spain's approach towards Gibraltar in the three years of the UK's withdrawal negotiations, since Article 50 of the Lisbon Treaty was triggered by Theresa May, already conforms with the approaches set out above. For example, the EU's draft negotiating guidelines, i.e. its objectives and red lines for the withdrawal process, published just two days after Theresa May's letter, included a clause that stated: 'After the United Kingdom leaves the Union, no agreement between the EU and the United Kingdom may apply to the territory of Gibraltar without the agreement between the Kingdom of Spain and the United Kingdom' (European Council, 2017: Clause 24). This clause in effect granted Spain a double veto on the application of any future agreement on Gibraltar. In other words, any future agreement between the UK and the EU could exclude Gibraltar under this condition. Spain put this threat of a veto into practice at the eleventh hour of the Withdrawal Agreement being agreed by the 'EU27' in November 2018 by disagreeing with the wording of one of the clauses (Sanchez, 2018). Spain has similarly ensured that the de jure veto is re-emphasised in the EU's negotiating guidelines over the Future Agreement: 'Any agreement between the Union and the United Kingdom negotiated on the basis of these negotiating directives will not include Gibraltar' (European Commission, 2020).

It is clear that Spain's actions and rhetoric preceding the vote, during the withdrawal negotiations and since have already illustrated the very real pressure on the UK and Gibraltar for matters of sovereignty to be opened up for discussion. For its part, the British government has reconfirmed its commitment to the Rock. In his Greenwich speech on 3 February 2020, Prime Minister Boris Johnson stressed that, despite the EU's negotiating posture, 'the UK will be negotiating on behalf of the entire UK family, and that certainly includes Gibraltar; and the sovereignty of Gibraltar remains, as everybody knows, indivisible' (GBC, 2020). The Gibraltar Government has been similarly unequivocal in stating where Gibraltar stands with respect to Spain's proposal of joint sovereignty: 'It's as dead as a dodo' (YGTv, 2019). Nevertheless, it is absolutely clear that Brexit, through Spain's irredentist claim, presents very serious challenges for Gibraltar and, consequently, for the UK's position vis-à-vis the territory. The Gibraltar question is thus one of Brexit's negative consequences *par excellence*, one which has become a cumbersome predicament to the UK's negotiations over the Future Agreement.

## **NORTHERN IRELAND: THE RETURN OF THE TERRITORIAL DEBATE**

It is important to note that, in each of the cases analysed in this working paper, we find different dynamics in terms of the types of actors that are challenging the territorial status quo. As we have seen above, in Scotland it is purely an internal matter of the pro-independence movement led by the SNP, whereas in Gibraltar the actor pushing for territorial transformation is external, namely Spain. In Northern Ireland (NI), where the territorial effect hinges on the reunification of the island, the dynamics are arguably less clear cut. The reason for this is that Sinn Féin,<sup>8</sup> the main actor pushing for a reunification agenda and therefore for transforming the territorial status quo, is present in both NI and in the political institutions of the Republic of Ireland (RoI). Additionally, at least rhetorically, the RoI, through Article 3 of its Constitution, maintains the goal of Irish reunification: 'It is the firm will of the Irish Nation, in harmony and friendship, to unite all the people who share the territory of the island of Ireland [...] recognising that a united Ireland shall be brought about only by peaceful means with the consent of a majority of the people, democratically expressed, in both jurisdictions in the island' (Department of the Taoiseach, 2018). The case of Northern Ireland could therefore be considered hybrid in terms of the nature of the actors that aim to transform the territorial status quo.

It is important to note that in Northern Ireland itself the focus during the Brexit referendum campaign was on the challenges that a potential British withdrawal would pose for the peace process (Hayward and Murphy, 2018: 295). However, similar to what occurred in Gibraltar and Scotland, outside Northern Ireland this debate was conspicuous by its absence, as the focus was instead on issues and problems related to England and Englishness. As eloquently put by Henderson et al., 'Brexit was made in England because of England's population weight in the United Kingdom. And England's choice for Brexit was driven disproportionately

by those prioritising English national identity' (Henderson et al., 2017: 643). While Brexit may not have been triggered by Northern Ireland, the consequences of the British withdrawal from the European Union did pose serious predicaments for this territory.

Indeed, in NI Brexit has a few crucial particularities. Unlike the other cases analysed in this paper, as a result of partition this contested region was the centre of political violence throughout most of the twentieth century. Possibly because of this, both British and EU negotiators treated this territory with particular caution, not least through the 'backstop' clause, a sort of an insurance policy that would have prevented the hard border scenario in Ireland. Unsurprisingly, during the lengthy withdrawal negotiations the Irish border issue was described as the main 'sticking point' (Haverty, 2019). The 'protocol on Ireland/Northern Ireland' attached to the revised withdrawal agreement recognises the need 'to address the unique circumstances on the island of Ireland through a unique solution' and explicitly emphasises the commitment of the UK, guaranteeing that there will be no 'hard border' (British Government, 2019: 292-293). At the time of writing, however, the negotiations regarding the border issue between Ireland and Northern Ireland have still not been finalised. The various commitments to avoid a hard border have (thus far) prevented the worst-case scenario with regard to the Irish border issue, as the re-imposition of a border between north and south would have contravened the Belfast Agreement.

This agreement, which is popularly known as the Good Friday Agreement (GFA) is often praised for putting an end to three decades of political violence in Northern Ireland. In brief, the GFA led to the disbandment and decommissioning of the Provisional Irish Republican Army, as well as of other paramilitary groups, both Republican and Loyalist. However, this bilateral peace agreement between the Irish and British governments did not just terminate a violent conflict which had resulted in over 3,500 deaths, it also had a very significant territorial impact (CAIN, 2019) in that paradoxically it reinforced British sovereignty over the province. The acknowledgement of the right to the people of NI to Irish (as well as British) citizenship, the recognition of the principle of self-determination over the future status of the territory and the establishment of a power-sharing agreement, where both Irish Republicans and British unionists shared control over NI's affairs, generated an erosion of the 'territorial issue' (Northern Ireland Office, 1998; Taylor, 2006; McGarry and O'Leary, 2016; White, 2018). In Hayward and Murphy's words, the GFA had the effect of redefining 'relations across these islands in a way that [...] defused the border as a cause for political conflict and violence' (Hayward and Murphy, 2018: 276).

It is not too far-fetched to claim that open discussions on territoriality in Ireland experienced a comeback in Northern Ireland, becoming strengthened in the aftermath of the Brexit referendum. The first and perhaps most compelling evidence for this is that, in the wake of the Brexit referendum, Sinn Féin called for a reunification referendum in Ireland (Belfast Telegraph, 2016). The historical leader of the party, Gerry Adams, claimed in an op-ed in the *New York Times*, published shortly after the vote, that Brexit offered 'a reason and an opportunity'

for a referendum where, he continued, Northern Irish citizens could decide whether they 'wanted to be part of a Britain outside the European Union or belong to a unified Irish state in Europe'. This was not too dissimilar to Spain's intimations on joint sovereignty discussed above (Adams, 2016). Equally, in close similarity to the Scottish nationalists, Irish Republicans built their case on the grounds of the different voting results of their territories compared to the rest of the UK. It should be noted that Northern Ireland (56%), and particularly Irish nationalists in this constituency (88%), voted overwhelmingly in favour of the remain option (Garry, 2017).

The territorial debate that has been triggered by Brexit has also influenced developments in the Republic of Ireland. In the Irish general elections of February 2020, Sinn Féin, the quintessentially pro-reunification party that had been of marginal significance south of the border since the late 1920s, topped the polls with nearly a quarter of the votes (BBC, 2020b). In addition, according to a May 2019 survey, 77% of Irish citizens (in the south) support Irish reunification (McMorrow, 2019). Interestingly, in the context of the post-Brexit vote, the united Ireland agenda has also been advocated by actors such as the former Irish PM Enda Kenny, who have not traditionally adhered to the idea of Irish reunification. The former *Taoiseach*, for instance, successfully pushed his European counterparts at the European Council to include a clause stating that Northern Ireland could automatically enter the EU in the event of a hypothetical Irish reunification. In an unprecedented move that can only be understood in the context of the arduous and tense negotiations between the EU and the UK, in April 2017 the Council published a statement which explicitly recognised the possibility of a united Ireland, automatically making NI a member of the EU: 'The European Council acknowledges that the Good Friday Agreement expressly provides for an agreed mechanism whereby a united Ireland may be brought about through peaceful and democratic means. In this regard, the European Council acknowledges that, in accordance with international law, the entire territory of such a united Ireland would thus be part of the European Union' (European Parliament, 2017). In a similar way to both the Scottish and Gibraltar cases examined above, it seems unlikely that the EU would have issued such a statement explicitly acknowledging the possibility of altering borders without the Brexit factor. Brexit has, in other words, been pivotal in advancing the Irish republican cause at the EU level.

Some journalistic reports have suggested the possibility that Brexit may trigger dissident Republican paramilitary violence. Brian Kenna, for instance, the leader of a dissident republican political party, has acknowledged that 'Brexit is a huge opportunity. It's not the reason why people would resist British rule, but Brexit just gives it focus, gives it a physical picture. It's a huge help' (Carroll, 2019). However, this conjecture of a return to political violence is not supported by empirical evidence beyond the sporadic actions of dissident paramilitary groups, which also occurred prior to Brexit. The British withdrawal from the EU nonetheless has the potential to jeopardise stability by deepening the already fragile institutional architecture of NI. It is indeed far from ideal that the parties in a power-sharing executive that is based on consociationalism become polarised. As explained above, Irish nationalists led by Sinn Féin have stepped up their

claims for a referendum on a united Ireland, whereas the Ulster Unionist Party (NI's second largest unionist party) has radicalised its position by advocating direct rule from Westminster (Belfast Telegraph, 2019).

A few months after the Brexit referendum, in January 2017, the power-sharing government in NI collapsed following a corruption scandal<sup>9</sup> and disagreements between the two leading parties, the Democratic Unionist Party (DUP) and Sinn Féin, over the status of the Irish language and same-sex marriage. In all, NI was without an executive for three years (2017 to 2020). When the power-sharing agreement was eventually restored in January 2020, the Sinn Féin leader, Marie Lou McDonald, made it very explicit that, despite the commitment to power-sharing, the party's aim of abolishing partition remained central: 'we will also continue to work for Irish re-unification and [...] the triggering of an Irish Unity poll' (McDonald, 2020). Like the Scottish secessionists, the EU, or more specifically EU permanence, has become a brand new argument justifying the political necessity and legitimacy of Irish reunification.

From the above, it is clear that the Irish border has not only become a point of friction between Unionists and Irish Republicans in NI, it has also become a significantly contentious issue between the EU and UK negotiators. Interestingly, this territorial externality was utterly neglected during the Brexit referendum campaign.

## CONCLUSION

Our paper set out to draw attention to the territorial externalities inherent in the UK's withdrawal from the European Union and their conspicuous absence during the referendum campaign. With our analysis of the UK's territorial quagmire following its withdrawal from the EU, our paper paves the way for future studies of the role of the EU as a territorially stabilising factor.

The three cases we have examined, Scotland, Gibraltar and Northern Ireland, illustrate how pre-existing (pre-accession) territorial issues had become inextricably intertwined with membership of the European Union, meaning that exiting the bloc carries the very real possibility of re-exposing the cleavages between the different actors, and hence in effect reverting to the *status quo ante*. The three cases share important commonalities; they are British peripheries, they all voted remain, they were all territorially settled (or at least partly settled) prior to Brexit, and they all currently represent critical challenges for the future unity of the United Kingdom. Further, in the three cases, those actors who are aspiring to challenge the territorial status quo use the EU instrumentally with the aim of pursuing their political agendas.

In the case of Scotland, we found that the likelihood of a second independence referendum taking place within the next few years has gone from a distant possibility in the aftermath of the first vote in 2014 to an SNP policy commitment

for this to happen in the immediate future. Next time, it is likely to have the implicit support of the EU. This emerges from the conflicting aspirations of the Scottish electorate, who voted to remain in both the UK in 2014 and the EU in 2016. The UK's extraction from the latter means that these aspirations are pitted against each other, thus producing the SNP's commitment, which is reinforced by the role EU membership played in the independence referendum.

The EU's role in Spain's claim to sovereignty over Gibraltar has been similarly consequential. Gibraltar has benefited from the limitations imposed on Spain's approach towards the Rock provided by the *acquis communautaire*, as well as from the economic benefits of access to the single market. Leaving the EU, however, erodes these limitations and, for the first time since accession, gives Spain *carte blanche* to pursue its sovereignty claim in whatever manner it considers necessary. Specifically, based on the pre-accession *modus vivendi*, the nature of Gibraltar's EU membership, as well as the Spanish government's narrative since the vote, this case shows that Spain can now approach the claim with proverbial carrots and sticks. The carrot is to offer Gibraltar the possibility of continued EU membership through joint sovereignty. The stick allows Spain to impose punitive measures on Gibraltar in the same fashion as prior to Spain's accession in 1986.

As with the other territorial issues in the British peripheries analysed in this working paper, the Northern Irish question was conspicuous by its absence during the Brexit referendum campaign (at least outside of Northern Ireland). After the plebiscite, however, the status of NI and the future of the Irish border became one of the chief differences and consequently one of the pivotal headaches for both EU and British negotiators. One of the consequences of the revival of territoriality in NI is that, following O'Connell's dictum, contemporary Irish republicans are attempting to take political advantage of the current uncertain climate to push the agenda of a united Ireland. In contrast to the pre-Brexit scenario, this idea has now been institutionally (and explicitly) legitimised by the EU.

The three cases therefore reveal an apparent inevitability of territorial consequences once the UK's status quo vis-à-vis the EU changed. These cases also raise important questions regarding the main pre-referendum campaign, where these issues received very little mention, despite the significance of these territorial consequences for the UK's territorial integrity. Rather, the main thrust of the leave campaign was to regain sovereignty and 'take back control'. Herein lies Brexit's sovereignty paradox, as one of the consequences of pursuing sovereignty is that it has cracked open the possibility of dismantling another crucial feature of sovereignty: territorial integrity. Michael Keating stresses that, 'although Brexit will leave behind fault lines in the territorial politics of the UK, it may not provoke fissures sufficiently deep as to break the UK itself apart' (Keating, 2019: 175). Our analysis goes further and contends that, while Brexit might not necessarily lead to a change of the UK's territorial status quo (or that of its overseas territory), it has created the conditions for it, providing fertile ground for multiple actors whose respective causes (secession, annexation or reunification) have been significantly strengthened as a result of the uncertainties generated by the withdrawal of the

UK from the EU. After all, as we argued in the introduction, as human constructions borders are sensitive to political crises and vulnerable to human transformations.

## END NOTES

<sup>1</sup> The maxim is generally attributed to the Irish revolutionary Daniel O’Connell (1775-1847).

<sup>2</sup> Slightly fewer than 10% in the UK general election (2019) and around 20% in the Welsh Assembly elections (2016).

<sup>3</sup> The main architect of the Scottish referendum, former leader of the SNP Alex Salmond, stressed that the referendum was a ‘once in a lifetime opportunity’.

<sup>4</sup> For further details on the concept of paradiplomacy in a secessionist context, see: Duchacek, 1986; McHugh, 2015; Tavares, 2016; Castan Pinos and Sacramento, 2019.

<sup>5</sup> Note that Gibraltar did not form part of the Customs Union, the Common Agricultural Policy, the Common Fisheries Policy or the Value Added Tax agreement (Official Journal of the European Communities, 1972: Articles 28-30).

<sup>6</sup> Notably, this proposal ignores the fact that the joint-sovereignty proposal had already been resoundingly rejected by the Gibraltarian electorate in a referendum in 2002.

<sup>7</sup> The land border between Gibraltar and Spain has long been the area of greatest contention. Notably, Gibraltar acceded to the EEC while its border was closed with Spain, which, still under the authoritarian ruler Francisco Franco, was not a member of the EC.

<sup>8</sup> The party, which could be considered the bedrock of Irish republicanism, is the second largest in NI, where it obtained 28% of the ballots in the 2017 Assembly elections. During the ‘Troubles’, Sinn Féin was the political wing of the Provisional Republican Army.

<sup>9</sup> This case, which involved allegations of fraud, is known as the Renewable Heat Incentive (RHI).

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