**It’s Not Me, It’s You: Examining the Print Media’s Approach to ‘Europe’ in Brexit Britain**

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**Introduction**

Regardless of the United Kingdom’s history of grudging participation in European integration, the British electorate still ‘stunned the world’[[2]](#footnote-2) when, in June 2016, it voted to withdraw from the European Union (EU/Union). This because, irrespective of the UK’s longstanding Euroscepticism, the odds appeared stacked against the Leave campaign. As the *Mirror* neatly reflected in its decision to back Remain, the newspaper ‘simply [could not] ignore the combined weight of every living Labour leader, every living Prime Minister…the country’s biggest unions, most major employers, nine out of 10 economic experts…and almost three quarters of businesses’.[[3]](#footnote-3) When the UK went to the polls, however, 52% of the voting public disagreed.

Those who had charted the evolution of press attitudes to Europe and the connected mainstreaming of Euroscepticism in UK public debate over the four decades since the EU question was last put to the vote were perhaps less surprised.[[4]](#footnote-4) Writing before the campaign, Daddow argued that then-Prime Minister David Cameron’s referendum strategy would ‘be on the back-foot from the outset since he is unlikely to alter press positions’.[[5]](#footnote-5) And indeed, on the day of the referendum result certain quarters of the press were content to claim a decisive role in the Leave victory. Less than an hour after the outcome was declared, the editor-in-chief of the pro-Leave *Sun* newspaper reportedly told the Remain-supporting *Guardian*, ‘so much for the waning power of the print media’.[[6]](#footnote-6)

Drawing on a primary investigation of two pro-Remain (*The Mirror* and *The Guardian*) and two Leave-supporting (*The Daily Mail* and *The Telegraph*) newspapers, across three pre[[7]](#footnote-7) and three post-referendum[[8]](#footnote-8) periods, this chapter interrogates that claim and asks what it signifies for meaningful democratic debate on emotive yet highly complex issues.[[9]](#footnote-9) The investigation establishes three pertinent findings. First, though the Brexit press was extremely vocal during the referendum campaign, its influence stems from a much longer-term shaping of the UK’s EU-related debates. When the referendum campaigns were launched, Euroscepticism had long been the working language of British public discourse.

Second, the Brexit debate is, nevertheless, a clear example of the *continuing* and significant role and reach of print media in setting the parameters of public dialogue, despite declining sales. This raises important questions about the undeniable centrality of a free press to democratic debate on the one hand, and the potential risks to the quality of those same deliberations, on the other, when a heavily partisan press shapes them.

Third, irrespective of previous approaches, one might expect that a Leave victory would create the elbow room for all quarters of the British press to scrutinise internal and external Brexit processes with rigour. Arguably the explicit commitment of the Conservative government and the Labour opposition to realising the referendum result relieves any perceived pressure for a more rhetoric-driven strategy on those publications dedicated to UK withdrawal. Not so. Now more than ever the needs of an apparently homogenous UK public are pitted against the demands of an equally homogenised European bloc, reducing the opportunity for vital, nuanced debate about what policy choices must be made, and how, in the course of British departure. This has repercussions beyond Brexit, including the issue of whether stepping back from Europe also means distancing the UK from the separate European Convention on Human Rights (ECHR/the Convention).

**Are you Leave or Reform? A polarising campaign without polar opposites**

You know the most depressing thing about the campaign to Bremain? It is that there is not a shred of idealism… The EU, they say, is crap but we have no alternative.[[10]](#footnote-10)

Admittedly, when one considers that the Remain campaign was prefaced by Cameron’s pre-referendum negotiations for a ‘reformed EU’,[[11]](#footnote-11) this statement from Conservative Leave campaigner, Boris Johnson rings true. Yet an historical understanding of attitudes to the EU since UK accession, within interconnected media, political and public discourse, demonstrates why a Europhilic strategy appeared fraught with risk. The pre-existence of a dominant Eurosceptic narrative had two consequences. First, since much of the media has long cast British citizens as the victims, rather than the beneficiaries, of ‘Brussels diktats’, space for discussions about the potential positives of EU law and policy, for different societal groups, was constrained. Second, conversely, the ability of critical pro-Europeans to voice their own concerns about, for instance, the Union’s democratic legitimacy or neo-liberal foundations was circumscribed.

*A traditionally Eurosceptic nation reading an increasingly Europhobic press*

The UK could never really have been described as an enthusiastic participant in the European project. Having declined invitations to co-found the European Economic Community, the UK came late to the party and for reasons widely accepted to be rooted in its relative economic decline as a non-Member State.[[12]](#footnote-12) Indeed, it was arguably the message of ‘jobs + influence’ conveyed not only by political voices but, crucially, by the vast majority of the British press, which convinced a public perceived to be wary of the EEC to vote for continued membership in 1975.[[13]](#footnote-13)

Such a weak, instrumentalist form of pro-Europeanism in the UK was clearly vulnerable to being overwhelmed including by changes in press attitudes to the Union. Such a shift occurred. Daddow pinpoints the rise of the Murdoch empire, with its strong ideological opposition to the EU coupled with a dogged commitment to securing sales, as ‘an essential – perhaps the essential – explanation for the broader media drift from permissive consensus to destructive dissent’ as regards UK/EU relations.[[14]](#footnote-14) By assuming the position of the straight-talking ‘common man (and it was ‘man’)’ against ‘establishment elites’, and by asking its competitors why ‘Britain is wrong and foreigners right’, the *Sun*, in particular, pushed Eurosceptic newspapers towards more sensationalist reporting and the Euro-friendly press towards ‘a qualitatively different tone’, with increased focus on threats to British sovereignty and identity.[[15]](#footnote-15) From a legal perspective, Treaty reforms that birthed a European Union with political and social aims,[[16]](#footnote-16) preceded by Margaret Thatcher’s reference to a ‘European superstate exercising new dominance from Brussels’,[[17]](#footnote-17) provided fertile ground for this new narrative to take root.

By the time of the 2016 referendum campaign, then, Euroscepticism was already the common tongue of UK newspapers. Leave publications could continue to utilise longstanding rhetorical techniques to make their case, many of which were, potentially inadvertently, also long-used in newspapers backing Remain. Specifically, the debate was largely structured around an ‘us’ versus ‘them’ narrative, which adopted two main persuasive tools.

First, the European Union, its institutions, and its Member States were routinely presented as a uniform bloc under the label ‘Brussels’ or ‘Europe’,[[18]](#footnote-18) contributing to the depiction of the EU as a foreign bureaucracy engaged in ‘power grabs’.[[19]](#footnote-19) Admittedly, ‘Brussels’ might furnish journalists with useful shorthand in much the same way as ‘Westminster’ does for UK parliamentary activity. Nonetheless, ‘for the British at least and for Eurosceptics in general – the primary location [of the EU institutions] in Brussels inevitably evokes the notion of ‘foreignness’.[[20]](#footnote-20) The site of the EU’s Court of Justice (CJEU) in Luxembourg is similarly utilised to emphasise its operation as a ‘foreign court’.[[21]](#footnote-21) Routine use of ‘Brussels’ also abrogates, in the eyes of some UK newspapers at least, the need to explain the actualities of the EU’s institutional framework. Instead, as this legally inaccurate extract from the *Telegraph* demonstrates, since the institutions are impenetrably complex, focus is restricted to their ability to undermine British sovereignty: ‘E is for European Council, the Council of Europe, the Court of Justice of the European Union, the European Commission, and all those other baffling bodies which have the power to overrule the wishes of the British people and their Parliament.’[[22]](#footnote-22)

This serves both to homogenise the EU and separate it from the UK.[[23]](#footnote-23) *Daily Mail* readers were told, for example, that, upon exit, the UK could secure trade deals with the EU ‘without having to accept free movement of *its citizens* or pay into Brussels’ coffers’ [emphasis added].[[24]](#footnote-24) This despite the extensive involvement of UK representatives in the formation of the Union budget, which funds a collective project,[[25]](#footnote-25) and the availability of free movement rights to British citizens.[[26]](#footnote-26) The preserve of ‘foreigners’,[[27]](#footnote-27) seeking access to benefits[[28]](#footnote-28) or free healthcare in the UK,[[29]](#footnote-29) free movement existed only to be ‘abused’[[30]](#footnote-30) and ‘exploited’.[[31]](#footnote-31) ‘Brussels’ also separated the UK from a wider, singular EU within the Remain press. *The Guardian* explained that, during pre-referendum negotiations ‘Cameron wanted *politicians in Brussels* to agree to change several key things [emphasis added]’.[[32]](#footnote-32) Though some Remain-oriented articles sought to argue that free movement led to a net contribution by EU citizens to the public purse,[[33]](#footnote-33) and even the taking up of jobs seemingly beneath the British,[[34]](#footnote-34) EU immigration was generally accepted as inherently problematic. European Economic Area membership, for example, was described by the *Mirror* as the ‘being lumbered with the worst of all worlds, having to accept EU migrants but with no say at the top table’[[35]](#footnote-35)

That is not to say that the UK was routinely presented as an active contributor to EU law and policy. Instead, ‘Brussels’ imposed Union legislation[[36]](#footnote-36) on a ‘common sense’ UK.[[37]](#footnote-37) Frustration of the British will in Europe is commonly communicated via the second rhetorical tool: the framing of UK/EU relations through the language of war and imprisonment. Consequently, France and Germany are afforded independence from an otherwise uniform European bloc in order to cast aspersions on their motives, usually by reference to past continental conflict. The most striking illustration comes from the *Telegraph*: ‘While Mr Johnson is not arguing that the bureaucrats of Brussels are Nazis attempting to bring back Hitler’s Reich, his comparison is startling. Clearly he sees parallels between the choices that confronted his beloved Churchill, and Britain, during the Second World War and the decision facing voters next month.’[[38]](#footnote-38)

A long-term phenomenon, Daddow explains that increasingly Germanophobic rhetoric accompanied the Maastricht Treaty negotiations. *The Sun*, for example, described then-Labour leader Neil Kinnock as ‘shaking the clenched fist of Euro-power…warbling “Deutschland über Alles”’.[[39]](#footnote-39) Noting a similar approach to the French government, Hawkins postulates that a lack of detail from the press strengthens rather than undermines its message:

Little is said about the precise reasons why the European Commission or the French or German governments want to undermine the UK’s independence beyond a general assertion that it is in their interests [or why]… the UK…is singled out for this apparently unique treatment. Yet it is precisely because the motives of the European ‘other’ remain vague and impenetrable to us that they appear so menacing.[[40]](#footnote-40)

The language of imprisonment is employed in much the same way. The *Daily Mail*, for instance, exclaimed that [i]f we vote to stay we are hostages to their agenda’.[[41]](#footnote-41) This imprisonment also prevents the UK from reaching its potential: ‘are we seriously being told that a great nation like ours has no alternative other than to be manacled in perpetuity to a failing, undemocratic, self-obsessed, dysfunctional political edifice that even the Remain side can hardly bring itself to support?’.[[42]](#footnote-42)

However, when dominant media voices presented the EU, before the idea of a referendum was even conceived, as a homogenous, foreign leviathan against whom the UK must go into battle, it is easy to see why ‘Reform’ was chosen over a more Europhilic form of Remain. Thus, pro-EU newspapers sought to convince through a strategy of ‘coming clean’ about the fact that the ‘European Union is a difficult organisation to support with great enthusiasm’,[[43]](#footnote-43) arguing that ‘we have to swallow short-term irritations and focus on long-term interests’.[[44]](#footnote-44) Remain-campaigning politicians adopted the same approach, the clearest example being Cameron’s pre-referendum pledge only to campaign for membership of a *reformed* EU[[45]](#footnote-45) and his continued self-identification as a ‘proud Eurosceptic’ during the campaign.[[46]](#footnote-46)

Yet, while being seen to address the Eurosceptic concerns that had long preoccupied British public discourse seemed the only available strategy, such an approach also underestimated the entrenched accounts of Europe in much of the British press. Specifically Cameron’s tactic that his renegotiation ‘positively [would], and normatively should, return powers to Britain’ risked being undermined in the subsequent media edit.[[47]](#footnote-47) Indeed, Cameron’s pre-referendum renegotiation was ultimately portrayed by the Brexit press as confirming European contempt for the UK,[[48]](#footnote-48) while even pro-EU newspapers implied that Cameron had gone back on his word in campaigning to Remain, given the outcome.[[49]](#footnote-49) This despite the surprise of EU law experts as to what the renegotiations had achieved within the confines of the Union legal framework.[[50]](#footnote-50) For instance, because Cameron’s requested restriction on access to social assistance for newly arriving EU workers would have discriminated against them, as compared with UK nationals, it was widely believed, before the renegotiation, that this would require Treaty change. Amending the Treaties was unlikely to be achievable within the time constraints imposed as a result of the UK referendum. Unexpectedly, however, the ‘emergency benefits brake’, foreseen by the renegotiation, would have been introduced more swiftly via secondary Union legislation.[[51]](#footnote-51)

Following this, the Remain campaign focused on the negative impact of a Brexit on the British economy and security, in which business had one of the loudest voices.[[52]](#footnote-52) Yet this arguably contributed to, rather than undermined, what Hawkins identifies as a longstanding, ‘impoverished [media] conception of the EU [w]hich precludes any meaningful discussion of the benefits which may derive from EU membership for different groups in society’.[[53]](#footnote-53)

*Imperial outrage: inching out positive policy developments*

Just as the ‘us versus them’ structuring of UK/EU relations, by the British press, presents the Union as a singular entity, it serves equally to homogenise the UK public, which is frequently presented as having a uniform stance towards Europe.[[54]](#footnote-54) This limits opportunity for discussion about the competing pros and cons of membership for a diverse British public. Two mechanisms enabled this. First, Leave-supporting newspapers juxtaposed ‘elites’ – encompassing the ‘big corporates’, the British ‘political and educated classes’ and the ‘Brussels oligarchy’[[55]](#footnote-55) – against ‘ordinary working people excluded from the…the corridors of power and condemned to suffer the worst excesses of the EU juggernaut’.[[56]](#footnote-56) In this way, the uniform ‘will of the people’ could be depicted as routinely frustrated by the ‘unelected…people who run the show’.[[57]](#footnote-57)

The Remain camp rarely addressed this. Rather than seek to broaden discussions to cover the pros and cons of EU membership for different (inter)sections of society, it focused on the projected negative impact of withdrawal on the UK economy, perhaps because of the knock-on effects this could be presented as having on everyone. *The Guardian*, for example, reported on then-Chancellor George Osborne’s speech, backed by the IMF, OECD, Bank of England and London School of Economics, which combined arguments about the deleterious effects of a Brexit on the economy with the accusation that Leave considered ‘allowing people to be poorer [to be] a price worth paying’.[[58]](#footnote-58)

In the age of austerity and precarious work, however, this arguably simply played into the hands of the Leave press.[[59]](#footnote-59) Readers were told that Remain’s funders did not care about the loss of school, housing and hospital places, purportedly as a result of EU immigration, by ‘ordinary people’ because the ‘big banks, the big corporates and oil companies don’t use those services’.[[60]](#footnote-60) Though the Remain press also employed an anti-elites narrative,[[61]](#footnote-61) Levy et al postulate that the Remain camp’s focus on economic risks and expert endorsement might have ‘compounded the sense that they represented an elite’.[[62]](#footnote-62) This could be contrasted with the more ‘emotive pull of the Leave campaign’s approach, their hostility to experts…and their very effective slogan of retaking control of the country, which neatly brought together concerns about sovereignty and migration’.[[63]](#footnote-63)

The second tool used to homogenise the UK public was to assess the Union’s democratic legitimacy through a distinctly national lens. At worst, readers were told that Union legislation is generated at the ‘whim of unelected bureaucrats’.[[64]](#footnote-64) At best, they were informed that UK representation within the EU institutions was minimal: ‘the UK can be outvoted in the Council of Ministers [where] we have 8% of the votes’.[[65]](#footnote-65) *The Telegraph* went furthest, descending into blatant untruth: ‘Z is for zero. The number of times EU law has been changed because Britain has raised objections. This has not been for want of trying’.[[66]](#footnote-66) Of course, the UK can lose out during the EU’s law-making processes. Indeed, Hix and Hagemann found that the UK was the most frequently outvoted Member State in the Council between 2009 and 2015.[[67]](#footnote-67) Nevertheless, they also emphasised that, in practice, the Council makes the majority of its decisions by consensus and the UK remained on the ‘winning side’ 86.7% of the time.[[68]](#footnote-68) This is without mentioning the various opt-outs/opt-ins the UK enjoys, including from the Euro[[69]](#footnote-69) and in the Area of Freedom, Security and Justice.[[70]](#footnote-70)

Crucially, the consequence of reducing EU law-making to a series of UK ‘wins and losses’[[71]](#footnote-71) is that ‘sectoral, class-based analyses of specific policy issues are marginalised at the expense of the dominant narrative of the national interest’.[[72]](#footnote-72) At the supranational level, this approach also fails to reflect the need to balance Union objectives against the wishes of sovereign Member States against the views of EU citizens, as the EU’s Commission-Council-Parliament decision-making triangle seeks to do, even if the success of that framework is rightly the subject of rigorous debate.[[73]](#footnote-73) Instead, EU legislation can be unvaryingly presented as bad for Britain and favourable to foreigners.

Despite newspapers’ anti-elites narrative, press portrayal of Union law-making as disadvantageous to a uniform UK invariably focused on the effects of EU legislation on business rather than people. For example, one *Telegraph* articlecited business costs as the sole reason why EU regulations were undemocratic: ‘Democracy – Each year, 2,500 new Brussels Regulations cost business £600m’.[[74]](#footnote-74) EU ‘red tape’ was depicted as necessary only for those companies who wished to export ‘over there’ and as pointlessly burdensome for the many that do not.[[75]](#footnote-75) Rhetorical force was delivered to this argument by communicating a form of outrage at the impact of EU legislation that would otherwise seem paradoxical. Specifically, newspapers highlighted EU involvement in farcically low-level minutiae on the one hand, whilst emphasising the attack on British sovereignty that this represented on the other. Of course, the ‘Metric Martyr…who defied Brussels edicts by insisting on his right to sell his wares by the pint and inch’,[[76]](#footnote-76) was mentioned as well as restrictions on ‘high performance vacuums’.[[77]](#footnote-77)

Absent from much of these discussions,[[78]](#footnote-78) is adequate examination – regardless of any final conclusions – of the potential benefits of, for instance, health and safety, consumer or environmental rules, business costs aside. Remarkably, the Leave campaign was able to argue in the *Mirror* that ‘some rules, such as forcing small firms to carry out health and safety checks could be axed to help business’,[[79]](#footnote-79) with no independent journalistic assessment of whether the rules referred to were actually less necessary within smaller companies. In short, the homogenisation of the British public, pitted against the singular ‘Union’ can result in the representation of wide-ranging EU law and policy as unwanted red-tape that operates to the detriment of the UK as a whole.

This press approach is reflective of the wider referendum campaign, which largely boiled down to a three issue poll on the economy, immigration and the campaign itself.[[80]](#footnote-80) Deacon et al report that the ‘marginalisation of…major issues, including the environment, taxation, employment, agricultural policy and social welfare was striking’ and that there was a ‘remarkable absence’ of devolution from the discussion.[[81]](#footnote-81) Clearly, this is frustrating given the considerable constitutional challenges now facing the devolved nations. Moreover, Northern Ireland offered an excellent case study of the broader practical challenges of realising Brexit. Prior to the referendum, the Northern Ireland Affairs Select Committee had highlighted the clash between the desire both to leave the Single Market and Customs Union and increase cross-border trade; and between the call to end financial contributions to the EU and maintain subsidies for farmers.[[82]](#footnote-82)

If EU law was wholly detrimental for a uniform UK, any advantages were the strict reserve of non-British EU citizens. Further, if stories in UK newspapers were proportionate to reality, their readers would be forgiven for thinking that the EU citizenry was almost entirely comprised of ‘benefit tourists’[[83]](#footnote-83) and criminals. In a number of pieces, the *Daily Mail* reported, that ‘Brussels rules dictate that the UK can’t bar EU nationals unless they present a serious, credible and present danger to national security’;[[84]](#footnote-84) and consequently ‘a string of murders and rapists have been allowed in’.[[85]](#footnote-85) Since Directive 2004/38 was passed by Council and the European Parliament, both institutions in which the UK sits, and allows EU citizens to be refused entry on grounds of public policy, public health, and public security, the newspapers claims are at best inaccurate.[[86]](#footnote-86) Public policy comfortably covers murder and sexual offences,[[87]](#footnote-87) while the Court of Justice defines ‘public security’ considerably more broadly than ‘national security’.[[88]](#footnote-88)

This homogenisation of the British public not only narrowed the debate as regards the potential positives of EU membership for different sections of society. It also left little room for the critical Remainer, which arguably also impacted on the perceived legitimacy of the Remain campaign.

*What place for the critical Remainer?*

It might, at first, seem contradictory to argue, on the one hand, that the Remain campaign was built on reform and posit, on the other, that the debate limited space for the critical Remainer. Nonetheless, the terms of that reform were arguably set by the longstanding live issues within British Eurosceptic discourse. In calling, amongst other things, for a reduction in the burden of over-regulation on business; a ‘formal, binding and irreversible’ exception from ever-closer union; restrictions on EU citizens’ access to in-work benefits; a ‘crackdown on the abuse of free movement by fraudsters’; and stronger powers to deport criminals,[[89]](#footnote-89) Cameron’s renegotiation, for instance, spoke directly to entrenched press positions on ‘red tape’, the threat to British sovereignty posed by a ‘superstate’, and the exploitation of free movement rules by EU ‘benefit scroungers’ and criminals.

Yet many of these concerns do not bear out in practice, since the Union is either already aware of the problem or evidence puts its very existence into doubt. On ‘red tape’, the Commission had already launched its Better Regulation Agenda in May 2015,[[90]](#footnote-90) focused on effectiveness and efficiency. As for ‘ever closer union’, Gordon points out:

Anxiety about the future sovereignty of the UK as a nation state has been projected onto these three words notwithstanding the fact that…they clearly do not commit the UK to inevitable absorption into a federal EU, with the possibility of differentiated membership increasingly well established in practice.[[91]](#footnote-91)

Finally, beyond some instances of localised pressure, academic assessment of EU immigration consistently points to a positive impact on the British economy.[[92]](#footnote-92)

Consequently, much of the ‘renegotiation’ reaffirmed existing mechanisms. It pledged to ‘repeal unnecessary legislation’[[93]](#footnote-93) and exclude the UK from ‘ever closer union’, whilst stating that the phrase did not compel Member States to aim for a common destination.[[94]](#footnote-94) Member States’ ability to remove EU citizens for reasons of public policy and public security and to tackle abuse of free movement right was reiterated. Nevertheless, the introduction of an emergency brake as part of the renegotiation, which would have allowed the UK, under certain conditions, to limit newly-arrived EU citizens’ access to in-work benefits was genuinely new. Traditionally, EU workers have long enjoyed equal treatment rights in their host Member State as regards access to social assistance.[[95]](#footnote-95) Crucially, despite a lack of empirical evidence,[[96]](#footnote-96) the renegotiation explicitly accepted ‘the pull factor arising from a Member State’s in-work benefits scheme’ as the underlying rationale for the emergency benefits brake.[[97]](#footnote-97) Moreover, the renegotiation documents explicitly accepted that the UK was experiencing the ‘exceptional situation’ the emergency brake was intended to cover.[[98]](#footnote-98) In this way, the renegotiation legitimised popular claims about ‘benefit tourism’, despite the fact that academic studies have found little evidence of this.[[99]](#footnote-99)

Though Cameron and the EU had little choice but to be seen to address the perceived issues with the Union that had long featured on the front-pages of British newspapers,[[100]](#footnote-100) the combination of the mere affirmation of existing mechanisms with the use of language that endorsed popular claims about immigration left the renegotiation ripe for attack by the Leave press. If mentioned at all, the renegotiation was simply presented as ‘two thirds of diddly squat’, and evidence of EU contempt for Britain.[[101]](#footnote-101)

Furthermore, shaped by popular reservations about the Union, the renegotiation failed to engage in more meaningful EU reform, even accepting that this would have been ambitious within the time and situational constraints created by the UK referendum. Two examples demonstrate this point.

First, despite vociferous vilification of the CJEU by the Leave press,[[102]](#footnote-102) its broad-brush criticism of the Court’s ‘sovereignty-stealing’ nature precluded a deeper conversation about its power. Remain newspapers countered Leave’s assertions by focusing on the technicalities of CJEU procedure. The Court, readers were told ‘deals with requests from national courts for clarification of legal principles… [It doesn’t] decide the case…over the years other competences have come within the field of EU law…by common agreement of EU states’.[[103]](#footnote-103) Yet, the Leave press is far from alone in questioning the Court’s approach. As Nic Shuibhne rightly highlights: ‘[T]he Court frequently pronounces so prescriptively in preliminary rulings that it is effectively deciding on the facts…[and] does not always consider the downstream systemic effects or implications of its decisions for broader national regulatory priorities.’[[104]](#footnote-104)

Indeed, the CJEU’s expansive approach to what constitutes ‘the scope of EU law’ has seen the free movement provisions affect national rules on, amongst other things, industrial relations,[[105]](#footnote-105) social security,[[106]](#footnote-106) non-EU immigration,[[107]](#footnote-107) and housing.[[108]](#footnote-108) More broadly, the Court’s introduction of direct effect and supremacy,[[109]](#footnote-109) and the primary law status of its judgments, have rendered the EU’s political institutions less central to internal market developments and less able to respond to domestic reactions to EU case-law.[[110]](#footnote-110) This has inhibited some of the political means of securing the Union’s democratic legitimacy, even accepting the centrality of seminal CJEU judgments to the contemporary functioning of the internal market.[[111]](#footnote-111)

Second, since press analysis of the Union’s democratic legitimacy was principally conducted through a national lens, little attention was paid by UK newspapers to the growing dominance of national executives within the Union’s institutional framework, particularly following the sovereign debt crisis.[[112]](#footnote-112)

In sum, against a longstanding ‘us’ versus ‘them’ narrative, within British media and public discourse, which pits a singular ‘Europe’ against a homogenised UK, it was always going to be difficult to present the positives of membership to the electorate. Conversely, nuanced critique of the Union’s democratic profile is also inhibited by this reductive approach to UK/EU relations. Of course, correlation and causation are very different things and it is difficult to measure, particularly as a lawyer, the impact of the print media on wider public discourse, the reform agenda, and the vote itself. Nevertheless, it is clear that the press, working in partnership with certain politicians, enjoys substantial societal voice, which in turn gives them the power to influence the tone of EU-related debate.

**Tomorrow’s chip paper? Assessing the reach and role of the Brexit press**

In the social media age, in which newspaper sales are in decline, analysis of print media might seem outdated. However, research suggests the press still enjoys significant reach. Given the rhetorical approaches newspapers employ, outlined above, this raises questions about their role. On the one hand, a free press is pivotal to a functioning democracy; on the other, a heavily partisan press might pose risks to high-quality debate. This difficult balancing act is arguably best approached by viewing newspapers as political actors and by assessing whether there are sufficient checks and balances across the democratic landscape to ensure the wider discourse reflects the complexity of the issue at hand. However, the wider media, and in particular broadcasters, allow their own communications to be strongly influenced by newspapers’ agendas, markedly limiting their ability to act as a check on a persistently powerful press. That said, the UK press does not act alone in shaping debate. It is often ably assisted by political actors, creating a press/politics partnership that severely inhibits the capacity of newspapers to meet their democratic function and hold politicians to account.

 *‘It is smaller, weaker and less profitable than before but [Fleet Street] still bites’[[113]](#footnote-113)*

For some media commentators, the referendum result demonstrates the current conundrum that ‘as the print media decline in circulation…their power has never seemed greater’.[[114]](#footnote-114) However, a long-term analysis arguably once again indicates why this is the case. Over the three main loci of EU-related debate – the individual, the broader media, and political spaces – the influence of the press far pre-dates the referendum campaign.

At the individual level, British newspapers have historically benefited from healthy readership figures. Indeed even as numbers wane, they still enjoy, relatively speaking, considerable direct reach. In 2014, over 12 million people in the UK still bought a newspaper every day.[[115]](#footnote-115) Moreover, those figures do not include readers who read their paper ‘second-hand’, nor do they include online editions. Crucially, while individual titles were divided fairly evenly across Leave and Remain, the readerships of the latter are significantly smaller than the former.[[116]](#footnote-116) Even before the referendum, the proportion of UK readers consuming Eurosceptic coverage vastly outweighed those taking in ‘neutral’ or pro-European messages.[[117]](#footnote-117) Demographics are also a factor: older voters were more likely to buy a newspaper, and one which was pro-Leave, turn out to vote, and to opt for exit.[[118]](#footnote-118)

Of course, this raises the question of whether the press simply preaches to the choir. Certainly, the drivers behind newspapers’ increased Euroscepticism appear at least part-commercial,[[119]](#footnote-119) leading The *Guardian* to question the power of the Brexit press, since it ‘reflected what their readers thought to begin with’.[[120]](#footnote-120) Nevertheless, research suggests that newspapers hold considerable sway over their consumers. Prolonged exposure to the media’s evaluative messages can either gradually influence predispositions or entrench negative views, particularly as regards the EU, about which the media is often citizens’ primary source of information.[[121]](#footnote-121) Ultimately, while commercial drivers might have contributed to more sensationalist reporting, this in turn allows proprietors and editors with their own ideological positions to capitalise on readers’ general wariness towards ‘Europe’ by suggesting that the Union is responsible for readers’ wider concerns about anything from the NHS to national security.[[122]](#footnote-122)

Newspapers also enjoy an agenda-setting function as regards the wider media. Section one demonstrated that a Eurosceptic discourse structured discussions even in Remain newspapers. More broadly, broadcasters have been slow to respond to diminishing newspaper sales, offering the press a disproportionate role in shaping their own communications and allowing the print media to influence the information imparted even on those who no longer reach for their morning paper.[[123]](#footnote-123) As Seaton notes, ‘it took two days from the actress Emma Thompson coming out in favour of ‘Remain’ through the Sun’s headline ‘Shut Yer Cakehole’, to Evan Davies’ on Newsnight saying that Remain had a ‘Luvvie’ problem’.[[124]](#footnote-124)

Finally, the historical power of the UK press has also influenced political discourse over the longer-term. Hawkins reports that Government ministers have long-employed the same ‘us versus them’ narrative as British newspapers, depicting the EU ‘not as a mechanism through which the UK manages its relations with other member-states but as a threat from which the UK must be protected’.[[125]](#footnote-125) At the very least, this suggests a ‘subtle, subconscious process of socialisation’[[126]](#footnote-126) of political discourse by the press. However, politicians have often also made a conscious choice. According to Daddow, as the media became more hostile to the EU, ‘politicians came to believe that serious and sustained political discussion of European affairs was dangerous to their personal careers and party political fortunes’.[[127]](#footnote-127) This was not, however, just about abandoning pro-European positions. Increasingly politicians have sought to cultivate an image of being tough on Europe, whether that be Blair’s stance on the EU Charter of Fundamental Rights and labour law,[[128]](#footnote-128) or the competition between politicians on both sides of the referendum campaign to display their Eurosceptic credentials.[[129]](#footnote-129)

There is also evidence of more explicit attempts by newspapers to influence political figures. John Major told the Leveson Inquiry that:

In the run-up to the 1997 election…[Murdoch] made it clear that he disliked my European policies which he wished me to change. If not, his papers could not and would not support the Conservative Government…it’s not often that point is directly put to a prime minister in that fashion.[[130]](#footnote-130)

Evidence to the Inquiry also suggested indirect forms of influence by the Murdoch press on Labour during the Blair years and, later, on the Conservative party by means of steer from Murdoch as regards what policies would win his newspapers’ general election support,[[131]](#footnote-131) or friendships between editors and political figures.[[132]](#footnote-132)

While attempts by newspaper proprietors to influence individual politicians sees varying degrees of success,[[133]](#footnote-133) newspapers and their owners clearly enjoy continuing capacity to shape public discourse. As regards the referendum, the press clearly ‘intervened in the debate with the strategic aim of influencing politicians, campaigners and readers’.[[134]](#footnote-134) This raises difficult questions. On the one hand, a free press is central to functioning democracy. On the other, since ‘the media plays a crucial role as the electorate’s main source of information about politics, and particularly about the EU’,[[135]](#footnote-135) a heavily partisan press risks the inhibition of varied debate. The examination of newspapers as political actors[[136]](#footnote-136) offers a useful means of assessing whether press partiality poses a democratic problem and, if so, the extent of it.

*Newspapers as political actors*

Scrutiny of the press as a political actor is two-fold. First, newspaper conduct should be assessed. Second, the efficacy of current checks and balances must be considered. On conduct, partiality is not, of itself, problematic. Indeed, the Leveson Inquiry recognised the right of the press to be partisan and the legitimate influence this can have on the choice of story and the angle from which it is reported.[[137]](#footnote-137) The survey sample for this study indicates, in this regard, that the Leave press was simply better at writing persuasively,[[138]](#footnote-138) and invested more of its resources into the campaign.[[139]](#footnote-139) More importantly, there are numerous examples of newspapers providing useful scrutiny of Brexit debates and developments despite, or as part of, their ideological position. The *Daily Mail*, for example, reported on a leaked letter suggesting Cameron was ‘plotting with a multinational firm on how to hammer home the Remain case while still claiming he was prepared to campaign for Leave’.[[140]](#footnote-140) The *Telegraph* questioned whether law and politics could ever be as separate as the High Court claimed in *Miller*,[[141]](#footnote-141) in which it was held that parliamentary authorisation was needed for Theresa May to trigger UK withdrawal from the Union.

Press conduct becomes a cause for concern, however, when newspapers misreport EU legal issues as a result of poor practice or conscious choice.[[142]](#footnote-142) An infamous example of a blatant lie during the referendum campaign was the *Daily Mail’s* ‘We’re From Europe-Let Us In’, story which falsely implied that a ‘lorry-load of migrants sneaking into Britain’ claimed to be from Europe.[[143]](#footnote-143) Though the *Telegraph* stated that the individuals were from Iraq, it chose nonetheless to place the story within a wider piece on EU immigration.[[144]](#footnote-144) Over the course of the campaign, *Telegraph* and *Daily Mail* readers were also told, *inter alia*, that Britain has never been able to influence EU law;[[145]](#footnote-145) that Union legislation emanates solely from the European Commission;[[146]](#footnote-146) and that continued EU membership meant the prospect of ‘77m Turks’ coming to Britain.[[147]](#footnote-147) Establishing that this is a longer-term phenomenon, the Leveson Inquiry found evidence of ‘wilful blindness to the (lack of) truth of stories which fit a newspaper’s adopted viewpoint’ as regards the EU.[[148]](#footnote-148) It also emphasised that factual inaccuracies, such as the *Sun’s* ‘Swan Bake’ headline, which alleged Eastern Europeans were eating swans, can seem trivial but the ‘cumulative impact’ can have serious consequences for policy options and democratic discussions about policy choices.[[149]](#footnote-149)

More troubling still is the decision of newspapers to descend into xenophobic, sexist or homophobic language,[[150]](#footnote-150) which is often used as a rhetorical device to reinforce the ‘us versus them’ narrative of the Brexit press and to dramatise the legal situation at hand. Thus, the *Daily Mail* described the EU as ‘an unruly and disputatious club of strange foreigners’,[[151]](#footnote-151) and implied that it was in some way problematic that one of the High Court judges in *Miller* was ‘openly gay’.[[152]](#footnote-152) Both the *Daily Mail* and the *Telegraph* rarely mentioned the *Miller* litigation without reference to the births of the applicants in the case, Gina Miller and Deir Dos Santos, in Guyana and Brazil respectively.[[153]](#footnote-153) Christine Lagarde was presented to readers not simply as the head of the International Monetary Fund, but also as ‘George Osborne’s cougar friend’.[[154]](#footnote-154) Once again, these approaches are longstanding; the referendum was merely an opportunity for concentrated examples. Wring considers the 1986 Single European Act to be the watershed moment in this regard. Importantly, he highlights that, while the *Sun* led the way by encouraging its readers to tell the ‘feelthy French to FROG OFF…jingoism was not confined to the “redtop” papers. One Telegraph report suggested a breakthrough in the Channel Tunnel’s construction would allow the British to smell the “first whiffs of garlic”’.[[155]](#footnote-155)

The duration of this press conduct, and the ongoing ability of newspapers to set the parameters of wider media debate, appears to have impacted on the effectiveness of checks and balances by the broader media. As regards inaccurate reporting, a number of fact-checking bodies, such as FullFact.org, seek to scrutinise newspapers’ factual claims but enjoy considerable less reach than Britain’s most popular dailies. Journalistic enterprises such as InFact directly challenge EU-related articles before the Independent Press Standards Organisation (IPSO), but their impact can be limited. For example, since the *Daily Mail* entered into a dialogue over its infamous ‘We’re From Europe – Let Us In’ headline, no action was taken against the paper for its breach of the Editors’ Code. Instead, a correction was published on page two and was therefore likely to reach far fewer readers.[[156]](#footnote-156) Likewise, the *Guardian’s* scrutiny of inaccurate reporting in other newspapers is unlikely to be read by many of those who saw the original piece.[[157]](#footnote-157)

Very blatant racism was still expressly condemned in the newspapers surveyed, suggesting that an intangible combination of constraints – such as readers’ reactions, laws around incitement of racial hatred, and the individual boundaries of journalists and editors – offers something of a (potentially fragile) safeguard against openly racist abuse. The *Telegraph* condemned the UK Independence Party’s ‘Breaking Point’ poster, describing it as ‘triggering echoes of Nazi propaganda…and [going] well beyond the bounds of decency’.[[158]](#footnote-158) More broadly, the wider reaction to the *Daily Mail’s* ‘Enemies of the People’ front page,[[159]](#footnote-159) following the High Court judgment in *Miller* had a visible effect on that paper’s subsequent approach to the Supreme Court ruling.[[160]](#footnote-160)

Yet, these constraints themselves risk distracting from more subtle and pervasive press attacks. Indeed, the same *Telegraph* article that denounced the Breaking Point poster, argued that a Leave vote would free us from ‘having a lot of shouty Eastern European blokes standing outside B&Q’.[[161]](#footnote-161) The more tempered *Daily Mail* article on *Miller* still referred to Gina Miller as the ‘gloating ‘Guyana[n]’.[[162]](#footnote-162) While the pro-Remain press offered some scrutiny here, asking Miller ‘whether she believed a white man would have received similar levels of hate’[[163]](#footnote-163) – the long-term Eurosceptic angle of the British press led those newspapers to adopt some questionable techniques of their own. The *Guardian* sought to reassure its readers about EU free movement rules, for instance, by claiming that ‘the more typical EU migrant today is a French or Italian graduate working in the City…than a Polish plumber’.[[164]](#footnote-164) The contrast between the *Guardian’s* approach here and its treatment of Miller raises larger questions about the considerable societal voice one seemingly needs to enjoy before the opportunity to challenge entrenched narratives even arises.

Of course, checks and balances need not be internal to the press. One would expect a range of views to contribute to democratic debate – and informed decision-making – across, rather than simply within, media outlets. In that regard, broadcasters achieved greater parity than newspapers ahead of the referendum.[[165]](#footnote-165) However, concern about meeting their impartiality obligations, in a campaign that did not cut neatly across party political lines, also seems to have led broadcasters to rely more than ever on newspapers to set the parameters of debate,[[166]](#footnote-166) calling into question the capacity of news media to offer an effective counter-balance to the Eurosceptic press. More broadly, this rigid approach to impartiality led, first, to an over-emphasis on ‘balance’ between Remain and Leave, with little independent journalistic scrutiny of the due weight to be given to individual claims depending on their veracity;[[167]](#footnote-167) second, to the categorisation of evidenced-based expertise as simply falling on one side or the other of a political argument;[[168]](#footnote-168) and, third, to the over-representation of Conservative voices, since that party was more openly split, to the detriment of left-of-centre cases for Remain.[[169]](#footnote-169) Similarly alienating was the lack of diversity in media representations of the campaign. According to Harmer, women accounted for just 25.3% of all individual expert sources in television coverage and 15.4% in press reports, as compared to 48.1% and 39.1% respectively in features drawing on vox-popping.[[170]](#footnote-170) Moreover, Priti Patel MP and London Mayor, Sadiq Kahn, were the only black, Asian and minority ethnic campaigners to appear in the top 30 most featured campaigners.[[171]](#footnote-171) In-keeping with the wider findings here that the referendum merely reflects longstanding phenomena, there is evidence that this is a longer-term issue within the UK media coverage of EU issues.[[172]](#footnote-172)

Overall, then, while a free, and even partisan, press is essential to healthy democratic debate, its power, and the societal influence newspapers offer to individual proprietors and editors,[[173]](#footnote-173) also requires that they be scrutinised as political actors. While a number of mechanisms exist, the limited reach of, for instance, fact-checking services and corrections, following IPSO complaints, calls into question their effectiveness. Similarly, though the formal impartiality of broadcasters appears to offer a counter-balance to a partisan press, the reliance of TV news on newspapers to set the parameters of debate and an overly-rigid utilisation of ‘balance’ to achieve impartiality can undermine journalistic scrutiny and narrow debate. If broadcaster focus on balance led to an under-scrutiny of political claims, however, newspapers went further, working together with the political actors to co-write Brexit.

*Co-writing Brexit: the press/politics partnership*

It has already been established that Euroscepticism had become the ‘stock national style of debating European affairs’ far ahead of the referendum, including within political discourse.[[174]](#footnote-174) At best, this was because pro-European politicians demonstrated ‘a lack of leadership on European issues since accession’ or, at worst, it was the result of ‘a cunning political game’ designed to appease the Murdoch press for party political gain on what was once considered a low-salience issue.[[175]](#footnote-175) Eventually though, as section one outlined, this political mainstreaming of Euroscepticism left Remain with few strategic options beyond Reform when the issue of membership came to a head at the referendum.

However, the long-term nature of the UK’s Eurosceptic narrative notwithstanding, the referendum was nevertheless a flashpoint for closer synergies between like-minded political and media actors. Writing in the pre-referendum era, Hawkins argued that politicians expressed their Euroscepticism ‘in very different terms to the “obscene” components of Euroscepticism articulated by commentators in the tabloid press’,[[176]](#footnote-176) whose tactics were unavailable to the political mainstream. By calling upon politicians to choose a side, and inviting them to campaign, the referendum appears to have broken down this barrier. Indeed, politicians were often in the driving seat, providing *Leave* newspapers with more than enough material to communicate their message, or even writing on their behalf, whether to disseminate inaccurate information or, more troublingly, to join newspapers in the use of xenophobic language.

Thus, as well as emblazoning it on the side of a bus, in an interview with the *Telegraph,* Boris Johnson claimed that upon exit ‘we would have £350m more a week to spend on our priorities, such as the NHS’.[[177]](#footnote-177) Politicians were at the forefront of claims that EU law is imposed by the European Commission,[[178]](#footnote-178) and that EU citizens can only be refused entry to the UK for reasons of national security.[[179]](#footnote-179) Of course, newspapers provide an important mechanism for political expression. However, where politicians are providing copy that speaks to a publication’s editorial stance, the opportunity for journalistic scrutiny of (inaccurate) political claims becomes narrower. Admittedly, as far as MPs were concerned, Leave politicians were in the minority, certainly in terms of Cabinet ministers. They nevertheless enjoyed considerable voice, arguably out of proportion with the number of parliamentary figures actually supportive of withdrawal. This is arguably because, while Remain relied on expert endorsement, Leave was more likely to forefront political figures,[[180]](#footnote-180) which suited the media’s presidential-style campaign coverage[[181]](#footnote-181) and gave media-savvy politicians such as Boris Johnson a considerable platform.[[182]](#footnote-182)

Some politicians also engaged more openly in xenophobic language than was historically the case. For instance, though Second World War references have long been a rhetorical staple of the Eurosceptic press, politicians have traditionally been expected to be more discreet. When, in the early 1990s, Nicholas Ridley, then Secretary of State for Industry, described progress towards economic and monetary union as ‘like giving it up to Hitler’ in a ‘German racket designed to take over the whole of Europe’, he was forced to resign.[[183]](#footnote-183) A leaked document nevertheless suggested wider Cabinet and prime ministerial distrust of the ‘German character’.[[184]](#footnote-184) While Daddow rightly argues that we should not underestimate the impact of off-the-record Germanophobic sentiment shared between certain political and media actors, come the referendum there was seemingly no need for such caution. In an interview with the *Telegraph*, for example, Boris Johnson described the Union as the latest attempt to unify Europe: ‘Napoleon, Hitler, various people tried this out, and it ends tragically’.[[185]](#footnote-185) He pointed to the Italian motor-manufacturing industry, which ‘ha[s] been absolutely destroyed by the euro – as was intended by the Germans’.[[186]](#footnote-186)

Arguably, then, the synergies between a powerful Brexit press and high-profile Leave politicians, employing increasingly similar approaches to presenting UK/EU relations, allowed them to play their considerable part in co-writing Brexit. Nevertheless, Leave’s unexpected referendum victory might have brought an end to this partnership, giving the Eurosceptic press the elbow room to scrutinise the withdrawal process in exercise of its democratic function.

**If It Ain’t Broke They Are Unlikely to Fix It: Lessons for the Convention from the Brexit Referendum**

Rather than provide opportunity for a fresh approach by newspapers to UK/EU relations, the referendum result has instead further entrenched pre-existing press practices. In particular, the print media has utilised the exit negotiations to entrench further its ‘us versus them’ narrative and is often joined by Leave-supporting politicians who find endorsement in the wider political discourse. This presentation of the UK/EU relationship operates to the detriment of nuanced democratic debate about the various, and often conflicting, policy choices that the UK must make as it progresses towards exit. The longevity and tenacity of newspapers’ approach to the EU is arguably indicative of how future discussions about the UK’s relationship with the separate ECHR might play out. The rhetorical devices employed by the print media in its EU and Convention-related discussions have long been interchangeable and politicians have adopted comparable strategies in response. Consequently, any future debates about the UK’s engagement with the ECHR, with or without a referendum, seem pre-destined to be structured and conducted in much the same way as those on Brexit, leaving those who wish the UK to maintain its current approach to Convention rights in a difficult position.

 *Getting the best deal for Britain: a homogenous Europe versus a uniform UK*

In maintaining an ‘us versus them’ structure to its presentation of UK/EU relations, the British press continues to utilise well-established rhetorical devices such as the use of ‘Brussels’ to homogenise the Union. Following Theresa May’s Lancaster House speech – in which she outlined her Government’s overall ambitions for the UK’s exit from and future relationship with the EU – the *Mirror*, a Remain newspaper, speculated on what would happen if ‘Brussels refuses to cooperate’.[[187]](#footnote-187) France and Germany, however, continue to be singled out as being particularly eager to jeopardise negotiations.[[188]](#footnote-188) The language of war and imprisonment is still employed to reinforce this dynamic. For instance, a *Guardian* article critical of Boris Johnson’s decision to compare then French president François Hollande to a German guard in a Second World War film, was nonetheless entitled ‘Battle Lines Harden after Article 50 Ruling’.[[189]](#footnote-189) For the *Daily Mail,* Theresa May’s Lancaster House speech demonstrated her capacity to ‘extract us from the claws of Brussels’.[[190]](#footnote-190)

Similarly, the UK public is presented as having a uniform stance on Brexit, via the same ‘anti-elites’ narrative that juxtaposed ‘Remainers’ and ‘ordinary British people’[[191]](#footnote-191) before the referendum, and regardless of the fact that Remain secured 48% of the vote. The *Miller* proceedings only strengthened these accusations. ‘£30m Gina’[[192]](#footnote-192) formed part of a ‘smug, self-selecting, so-called “elite”’,[[193]](#footnote-193) that ‘sticks two fingers up at 33 million Britons whichever way they voted’.[[194]](#footnote-194) This too is underpinned by the language of war and imprisonment. According to the *Daily Mail* ‘fanatical Remainers [want] to keep Britain locked in the EU’. Its readers should ‘be under no illusion’, though ‘there may not be tanks on the streets… we’re seeing…an attempted coup designed to overthrow the will of the British people’.[[195]](#footnote-195)

Of course, the legal framework for Member State departure now provides some justification for press presentation of UK/EU relations as oppositional and the EU as singular. Under Article 50(2) TEU, the UK negotiates its exit with the EU as though already a third party. Moreover, the EU27 have accepted that this provision gives the Union horizontal competence over all substantive policy areas falling within negotiations, regardless of whether the EU would ordinarily have exclusive competence in the particular field.[[196]](#footnote-196) Consequently, the Union does negotiate as a single ‘bloc’. However, this legal backdrop is unlikely to be the root cause of newspapers’ continuing depiction of the UK and the EU as diametrically opposed. Press focus is not on the EU’s now far-reaching negotiating powers but on two more emotive issues. Newspapers frequently assert, first, that the EU is united in its desire to punish the UK for leaving,[[197]](#footnote-197) and second, that ‘to many EU leaders, stopping the project unravelling matters more than anything else, including a beneficial Brexit deal’.[[198]](#footnote-198)

The print media’s ‘us versus them’ presentation of UK/EU dynamics is endorsed even more heavily in the political discourse post-referendum than it was in the decades prior to it. Theresa May’s Lancaster House speech homogenised the UK public by promising ‘the right deal for Britain’, achieved through ‘the strength and support of 65 million people willing us to make it happen’. The speech implicitly endorsed accusations of ‘Brussels diktats’ and the language of imprisonment by declaring that post-exit, the UK could once again be an ‘independent’ and ‘self-governing’ country where ‘laws would be made in Westminster, Edinburgh, Cardiff and Belfast’.[[199]](#footnote-199) Furthermore, May made explicit reference to the apparent EU motivators of punishment and deterrence: ‘I know there are some voices out there calling for a punitive deal that punishes Britain and discourages other countries from taking the same path’.[[200]](#footnote-200) Elsewhere, pro-Brexit Conservative politicians have enthusiastically adopted the language of the newspapers for which they write, limiting the cohort of ‘Remoaners’[[201]](#footnote-201) to ‘die-hard elites’[[202]](#footnote-202) within the Houses of Parliament whose primary goal is to thwart the will of the British people.[[203]](#footnote-203)

As was the case before the referendum, an ‘us versus them’ narrative in public discourse is problematic for three reasons. First, the discursive space is reduced for nuanced debate about the diverse policy areas affected, in different ways, by various forms of Brexit. Soon after the Leave vote, Eurosceptic newspapers began distinguishing a ‘hard Brexit’, which would include departure from the Single Market and the Customs Union, from a ‘soft Brexit’, which could be implemented through continued membership of the European Economic Area. In arguing that anything other than the former would frustrate the will of the British public,[[204]](#footnote-204) the UK is presented as internally homogenous at the expense of honest debate about the various policy choices that might benefit some sectors or groups over others.

Second, the legal complexities of withdrawal are overlooked and presented, instead, as barriers fabricated by a Union with an ulterior motive. Having correctly predicted exit from the Single Market, the *Guardian* advanced that ‘losing preferential access…is another thing entirely. Ideally, the government would negotiate replacement trade arrangements but European leaders wish to limit these to deter others from leaving’.[[205]](#footnote-205) Though protecting the continuity of the Union is a clear EU priority,[[206]](#footnote-206) obstacles to the UK’s post-exit access to the Single Market are more practical in nature. By exiting the Single Market and ‘taking back control of its own laws’, the UK leaves a system of regulatory convergence and mutual recognition that makes the depth and breadth of intra-EU free trade possible in practice. In leaving the customs union, ‘Global Britain’ places itself outside a goods border relevant not just to tariffs but to ensuring that goods about to circulate freely within a market of 500 million consumers meet regulatory standards. By reducing the complex legal and regulatory frameworks, which are integral to the functioning of the Union, down to mere political game-playing by a vindictive EU, newspapers on both sides of the Remain/Leave divide deprive their readers of information that is crucial to their understanding of the negotiations.

Third, driven by an ideological goal, large sections of the UK press continue to underachieve as democratic checks on political activity. There was some evidence of journalistic scrutiny of Theresa May’s Lancaster House speech. The *Mirror* called it ‘rich on policy but short on detail’, especially as regards May’s approach to the customs union.[[207]](#footnote-207) The *Daily Mail* questioned whether May could keep her promise to protect workers if she were forced to carry out her threat to slash regulation to attract business.[[208]](#footnote-208) For the most part, however, the Brexit press in particular failed to scrutinise the Lancaster House speech with any real rigour. May’s unexplained claims – that UK citizens residing in other Member States would retain their current rights; that the UK could retain preferential access to the Single Market; and that new customs arrangements could be forged – were simplistically depicted as a ‘direct rebuke to European leaders who have repeatedly claimed that Britain will have to compromise on freedom of movement’.[[209]](#footnote-209) Moreover, parliamentary attempts to scrutinise the Brexit process are frequently depicted in Eurosceptic newspapers as ‘wrecking amendments by saboteurs’.[[210]](#footnote-210) In this way, the press aligned Theresa May’s vision for Brexit, as outlined in the Lancaster House speech, with the ‘will of the people’, while parliamentary involvement is characterised as an attempt to ‘dictate our negotiating stance’[[211]](#footnote-211) and to ‘thwart the will of the people’, language also employed by then-Secretary of State for Exiting the EU, David Davies.[[212]](#footnote-212)

Thus, though a Leave vote might have been viewed as giving the Eurosceptic press space to scrutinise the intricacies of UK withdrawal from the Union with rigour, instead it has continued with existing approaches, working alongside pro-Leave politicians and the post-referendum Conservative governments in seeking to co-write a ‘hard Brexit’. The continuity of the press’s rhetorical devices arguably has wider ramifications for media representations of UK relations with ‘Europe’ more broadly.

 *Ready for round two: the legacy of the Brexit debate for the ECHR*

One of the most frustrating errors in media coverage of ‘Europe’, for anyone with a basic understanding of EU law and the Convention, is conflation of the two systems. Mead and Gies both found numerous examples of this in their contributions to this volume.[[213]](#footnote-213) Analysis of the EU referendum campaign also demonstrates more subtle media amalgamation of the Union and the ECHR, which suggests that, without a change in approach, the UK’s relationship with the Convention is on a similar trajectory to its EU membership.[[214]](#footnote-214)

First, the ratcheting up of anti-European sentiment by the Eurosceptic press, as Brexit negotiations progress, is likely to cross-contaminate into ECHR discussions since these are built upon the same rhetorical structures used in EU-related debates. This is facilitated by the media’s frequent use of ‘Europe’ as ‘rather nebulous terminology’[[215]](#footnote-215) to refer to both systems. United by their ‘Europeanness’, these separate regional polities are presented, whether inadvertently or deliberately, as sharing institutional frameworks, problems, supporters and detractors.[[216]](#footnote-216) Consequently, the Euroscepticism that has become the working language of British public discourse is not limited to the EU but extends also to the ECHR. Accordingly, the well-entrenched nature of press antipathy towards the EU is mirrored in similarly longstanding hostility towards the ECHR.[[217]](#footnote-217) Opposition to the Convention is structured around the same ‘us versus them’ presentation of UK/EU relations, and expressed through identical persuasive tools. A homogenous Britain of ‘ordinary hardworking citizens’ is forced, by the ‘elite’,[[218]](#footnote-218) into membership of a human rights system that offers no benefits for UK citizens, whilst working, much like EU free movement rules, exclusively in favour of ‘foreigners’ and ‘terrorists’.[[219]](#footnote-219) If the Convention does have something to offer British citizens, this remains limited to ‘unworthy’ individuals such as paedophiles and murderers.[[220]](#footnote-220) UK/ECHR interactions are frequently portrayed through the language of war and imprisonment.[[221]](#footnote-221)

Second, the shaping of British public discourse about the ECHR around the same ‘us versus them’ structure as UK/EU relations indicates that those wishing to stay within the Convention framework are likely to opt for the same ‘reform and remain’ strategy used for the EU referendum, when the issue of ECHR participation is inevitably back on the table. Indeed, such an approach is already in play. After Theresa May called for exit from the ECHR over the EU during the referendum campaign, a spokesperson for David Cameron said ‘the PM has made clear that he wants to see reform of the ECHR and has ruled out absolutely nothing if we don’t achieve that’.[[222]](#footnote-222) Moreover, the emphasis of proposed ECHR reform on the need to ‘restore common sense’ and ‘prevent abuse of the system’[[223]](#footnote-223) is starkly reminiscent of Cameron’s pre-EU referendum focus on ‘the need to crack down on abuse of free movement’.[[224]](#footnote-224) Crucially, just as the discussion here establishes that the UK/EU pre-referendum renegotiation focused on issues fore-fronted by the British press, Gies’ analysis of the ECHR reforms sought by the British Government at the 2012 Brighton Conference identifies a similar relationship between the Government’s demands and those issues that were regularly featured in newspapers. [[225]](#footnote-225) In particular, the emphasis was on the politically sensitive issues – such as the deportation of terror suspects and prisoner voting – that have long received disproportionate press attention as compared with their occurrence before the ECtHR.[[226]](#footnote-226) Though Cameron is no longer Prime Minister, the longevity of opposition to the ECHR in media and wider discourse makes it difficult to envisage any case being made for continuing ECHR membership that is not rooted in reform. As Mead posits, ‘letting [the idea of human rights] shift onto more hostile terrain is probably the greatest failing of pro-rights campaigners in the UK’.[[227]](#footnote-227) Now that that ship has sailed, like the EU Remain campaigners before them, those in favour of continued UK participation in the Convention are likely to find themselves cornered by an opposition comfortable with its internal contradictions. Specifically, the latter would accuse the former either of being part of an elite too privileged to see the failings of the system or of being unable to make a positive case for the ECHR.

Third, as was the case with the EU referendum, any ‘Leave or Reform’ structure to future debate about the UK’s ECHR membership is likely simultaneously to narrow opportunities, first, to present the potential positives of participation for a diverse UK, on the one hand, and, second, to critique the evidence-based failings of the Convention system on the other. As Mead argues, the non-reportage of ECHR judgments in which the UK won the case, or where the action did not concern ‘foreign criminals’ means that readers rarely have the opportunity to ‘re-evaluate their assessment of the Convention…as a criminal’s charter’.[[228]](#footnote-228) Conversely, Murray advances that ‘Strasbourg’s supposed transgressions [in the *Hirst* prisoner-voting case-law] are ‘small beer’ compared to the substance of some of its other decisions’.[[229]](#footnote-229)

Consequently, if balance is to be at least partially restored to UK human rights debates prior to the reappearance of the question of the UK’s ECHR membership, regardless of whether that involves a referendum, the ability of British newspapers, as political actors, to set the tone of discussion must be assessed. When it comes to human rights, the print media is not ‘merely reporting the parliamentary debate [but]…forming, leading and directing the content’,[[230]](#footnote-230) arguably motivated, at times, by its own agenda.[[231]](#footnote-231) A free press remains vital to functioning democracy, and has the right to be partisan as part of its freedom of expression. However, since it is also a political actor it is necessary to ensure that it is subject to sufficient checks and balances. An adequate diversity of voices must be fully heard across the democratic landscape.

Yet at present, the same weakness of checks and balances is visible in the Convention context as it is in respect of the EU. Murray points out that though the Convention’s institutions seek to offer an alternative source of information about Strasbourg judgments, these have limited reach as compared with the British press.[[232]](#footnote-232) He also argues that the print media continues to set the tone for broadcasters, who struggle with impartiality as regards the ECHR since, just like EU membership, views on it do not neatly align with party politics. There is an over-emphasis on a mathematical ‘balance’ of views rather than giving due weight to evidence-based positions.[[233]](#footnote-233) Finally, politicians have been increasingly reluctant to challenge press accounts, either because they are sympathetic to newspapers’ positions or wise to the potential impact on personal or party political fortunes of making a positive case for the ECHR. A clear example of this is Cameron’s oft-quoted claim that giving prisoners the vote would make him ‘physically ill’.[[234]](#footnote-234) And, of course, political actors have not simply avoided addressing inaccurate press narratives. In their own communications, they have often conciously used similar rhetorical devices as the press. Theresa May, for example, employed the press tactic of over-emphasising certain aspects of a human rights case, for sensationalist effect, when she told the Conservative conference that a non-British citizen had been permitted to remain in the UK because he had a pet cat.[[235]](#footnote-235)

In sum, unless something changes across the broader democratic landscape, newspapers’ parallel approaches to the EU and the ECHR – which foster a Eurosceptic narrative in the broader discourse - mean that the process of withdrawing from the EU is unlikely to push debates about the Convention into the long grass. Instead, the Brexit process might well strengthen anti-ECHR sentiment whilst (further) weakening the quality of human rights debate.

**Conclusion**

One needed only to glance across newspapers’ front pages during the referendum campaign to see the virulence of much of the British press towards the EU. Yet given declining newspaper sales, and the fact that Remain had the backing of the then-British Prime Minister, the vast majority of his Cabinet, much of business and many trade unions, one might have questioned the contemporary reach of the UK’s print media prior to the referendum. Following the Leave vote, however, the influence of UK newspapers seems as strong as ever.

A long-term analysis of press approaches to the Union demonstrates why its power pervades. Though of course extremely vocal during the campaign itself, the British press had already significantly contributed to the establishment of Euroscepticism as the working language of UK public discourse well before the referendum. EU-related discussions, even in newspapers that would come out for Remain, commonly adopt an ‘us versus them’ structure, underpinned by rhetorical devices, such as the language of elites, war and imprisonment. This left the Remain campaign with few strategic choices beyond ‘Reform’, even while that focus left it open to criticism for failing to make a positive case for EU membership. More importantly, the pitting of an homogenised UK against a singular ‘Europe’, as a consequence of the ‘us versus them’ narrative inhibited both nuanced discussion about the potential advantages of EU law and policy for different societal groups and, conversely, deeper assessment of whether the evolution of Union law has been sufficiently democratic.

The considerable societal voice that newspapers clearly enjoy when asserting their ideological positions raises important democratic questions. While on the one hand a free, and even partisan, print media can be central to functioning democracy, press pursuit of a particular political position at the expense of accurate reporting can pose a risk to the quality of debate, or worse, incite racist, sexist and xenophobic sentiment. This difficult balancing act can be approached by assessing newspapers as political actors and examining whether there are sufficient checks and balances across the media and broader democratic landscape to reflect the complexity of the issue at hand. In the context of the referendum, however, where broadcasters seem to have struggled with how to meet their impartiality requirement, they appear to have relied more than ever on newspapers to set the parameters of debate. Ultimately, though, the press has not acted alone. Over the longer-term, politicians, wary of what the question of ‘Europe’ means for their parties’ fortunes have often utilised the same rhetorical devices as the press in their EU-related discussions. During the campaign, Leave-supporting politicians were often behind many of the inaccurate claims about UK/EU relations that appeared in the press and, at times, provided newspapers with material that reinforced growing, and more open, xenophobia. This press-politics partnership itself undermines newspapers’ roles as democratic checks on political actors.

Post-referendum, a Leave victory has not created the elbow room for rigorous scrutiny of internal and external Brexit processes. Indeed, the position of the UK as a third country in withdrawal negotiations seems, instead, to have reinforced the ‘us versus them’ narrative of UK/EU relations. Newspapers and a number of high-profile politicians continue to pit a uniform ‘Europe’ against a homogenous British public, reducing the opportunity for vital debate about what type of Brexit the UK should seek, and how, given the potential (and often conflicting) pros and cons for diverse stakeholders.

That this approach continues provides a strong indication of how future debate about the UK’s membership of the separate ECHR might proceed. Convention-debates in the UK have the same historical and rhetorical underpinnings as those surrounding EU membership. This – in a similar way as it does in EU-related discussions - works to the detriment both of nuanced debate about the advantages of membership and detailed consideration about problems with the ECHR framework. Since the EU and the ECHR fall under the same label of ‘Europe’ in British newspapers, rather than pushing the debate about the Convention into the long grass, the process of withdrawing from the EU might well strengthen anti-ECHR sentiment whilst further weakening the quality of human rights debates. To seek to avoid this it is vital to continue to scrutinise the press as a powerful political actor in its own right.

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8. The second three periods focus on key post-referendum events: 3rd - 4th November (High Court judgment in *R (Miller) v Secretary of State for Exiting the European Union* [2016] EWHC 2768); 17th - 18th January (Theresa May’s Lancaster House Speech); 24th - 25th January (Supreme Court judgment in *R (Miller) v Secretary of State for Exiting the European Union* [2017] UKSC 5) [↑](#footnote-ref-8)
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99. Above n. 96. [↑](#footnote-ref-99)
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103. O. Bowcott, ‘“We Don’t Decide National Cases”: ECJ Veteran Swipes Away Eurosceptic Barbs’, *Guardian* (19 April 2016). [↑](#footnote-ref-103)
104. N. Nic Shuibhne, *The Coherence of EU Free Movement Law: Constitutional Responsibility and the Court of Justice* (Oxford: OUP, 2013) p. 60. [↑](#footnote-ref-104)
105. *Laval* (C-341/05) EU:C:2007:809. [↑](#footnote-ref-105)
106. *Grzelczyk* (C-184/99) EU:C:2001:458. [↑](#footnote-ref-106)
107. *Carpenter* (C-60/00) EU:C:2002:434. [↑](#footnote-ref-107)
108. *Libert* (Case C-197/11) EU:C:2013:288. [↑](#footnote-ref-108)
109. *Van Gend en Loos* (C-26/62) EU:C:1963:1; *Costa v ENEL* (C-6/64) EU:C:1964:66. [↑](#footnote-ref-109)
110. G. Davies, ‘Legislative Control of the European Court of Justice’ (2014) 51 *CMLRev* 1579. [↑](#footnote-ref-110)
111. D. Grimm, ‘The Democratic Costs of Constitutionalisation: The European Case’ (2015) 21 *ELJ* 460. [↑](#footnote-ref-111)
112. C.f. J. Slack, ‘Corbyn Says We Can’t Limit EU Migrants’ *Daily Mail* (20 June 2016); see M. Ruffert, ‘The European Debt Crisis and European Union Law’ (2011) 48 *CMLRev* 1777-1806. [↑](#footnote-ref-112)
113. J. Gapper, ‘Fleet Street’s European Bite Remains Sharp’ *Financial Times* (22 June 2016) [↑](#footnote-ref-113)
114. J. Seaton, ‘Brexit and the Media’, (2016) 87(3) *The Political Quarterly*, 333-337, 334. [↑](#footnote-ref-114)
115. Baranowska, (above n. 39) 501 [↑](#footnote-ref-115)
116. Daddow, *Referendum Gamble* (above n. 4) 6; Deacon et al (above n. 80). [↑](#footnote-ref-116)
117. *Ibid.* [↑](#footnote-ref-117)
118. Levy et al (above n. 62). [↑](#footnote-ref-118)
119. Daddow, *Destructive Dissent* (above n. 13) 1225. [↑](#footnote-ref-119)
120. P. Preston, ‘The People Have Spoken on Brexit: But Did the Media Tell Them the Truth?’ *The Guardian* 13 October 2016. [↑](#footnote-ref-120)
121. P. Desmet et al, ‘Discussing the Democratic Deficit: Effects of Media and Interpersonal Communication on Satisfaction with Democracy in the European Union’ (2015) 9 *International Journal of Communication* 3177-3198; 3192. Other significant factors include interpersonal communications and political ‘sophistication’. [↑](#footnote-ref-121)
122. J. Slack, ‘Exposed: Cameron’s EU Sham’ *Daily Mail* (17 May 2016); Ross, *Telegraph* (above n. 102). [↑](#footnote-ref-122)
123. Seaton (above n. 114) 335. [↑](#footnote-ref-123)
124. *Ibid*. [↑](#footnote-ref-124)
125. Hawkins (above n. 40) 152. [↑](#footnote-ref-125)
126. *Ibid.* [↑](#footnote-ref-126)
127. Daddow, *Destructive Dissent* (above n. 13) 1236. [↑](#footnote-ref-127)
128. Hawkins (above n. 40) 152-153. [↑](#footnote-ref-128)
129. Groves, *Daily Mail* (above n. 19). [↑](#footnote-ref-129)
130. Lord Leveson, *An Inquiry into the Culture, Practices and Ethics of the Press: Report* (2012) Vol.III, p. 1131. [↑](#footnote-ref-130)
131. Ibid, pp.1139-1143. [↑](#footnote-ref-131)
132. Leveson, (above n. 130) p. 118. [↑](#footnote-ref-132)
133. John Major refused to change his EU policies and lost the support of *The Sun* in the 1997 General Election; Daddow argues that pressure from Murdoch influenced Blair’s U-Turn on a referendum on the now defunct EU Constitutional Treaty, *Destructive Dissent* (above n. 13) 1229. [↑](#footnote-ref-133)
134. Firmstone (above n. 59). [↑](#footnote-ref-134)
135. Hawkins (above n. 40) 154. [↑](#footnote-ref-135)
136. See also Firmstone (above n. 59). [↑](#footnote-ref-136)
137. Leveson (above n. 130) Vol.II p.688; see also Independent Press Standards Organisation, *Editors’ Code of Practice*, (2016) preamble. [↑](#footnote-ref-137)
138. Eurosceptic newspapers were more likely to sandwich counter-arguments between arguments supportive of their stance e.g. compare Hope and Turner, *Telegraph* (above n. 18); Slack, *Daily Mail* (above n. 24) with Mason and Asthana, *Guardian* (above n. 41); Komami, *Guardian* (above n. 24). [↑](#footnote-ref-138)
139. Firmstone (above n. 59). [↑](#footnote-ref-139)
140. Slack, ‘Exposed’ *Daily Mail* (above n. 122). [↑](#footnote-ref-140)
141. P. Johnston, ‘The Judges Should Have Stayed Out of This and Left it to the Politicians’ *Telegraph* (4 November 2016); *Miller* (above n. 8) para.5; see also on the UK opt-out from the EU Charter of Fundamental Rights, Howard and Aikens, *Telegraph* (above n. 36). [↑](#footnote-ref-141)
142. See Slack, ‘Secret Evidence’ *Daily Mail* (above n. 84), in which the author did not discuss the various allowances made for national security in CJEU case-law or provide readers with the name of the judgment discussed (presumably *ZZ v SSHD* (C-300/11) EU:C:2013:363). [↑](#footnote-ref-142)
143. J. Slack and J. Groves, ‘We’re From Europe – Let Us In’ *Daily Mail* (16 June 2016). [↑](#footnote-ref-143)
144. S. Swinford and K. McCann, ‘May Calls for Extra Curbs on Migrants’ *Telegraph* (16 June 2016). [↑](#footnote-ref-144)
145. Pearson, *Telegraph* (above n. 22). [↑](#footnote-ref-145)
146. Howard and Aikens, *Telegraph* (above n. 36). [↑](#footnote-ref-146)
147. J. Doyle, ‘Boris: Beware 77m Turks Coming Here’ *Daily Mail* (18 April 2016). [↑](#footnote-ref-147)
148. Leveson (above n. 130), Vol.II, p. 672. [↑](#footnote-ref-148)
149. Leveson (above n. 130), Vol.II, p. 688. [↑](#footnote-ref-149)
150. Notwithstanding that the right to offend might fall within the freedom of expression, this should be balanced against the rights of others (Art 8(2) ECHR). [↑](#footnote-ref-150)
151. Glover, *Daily Mail* (above n. 21). [↑](#footnote-ref-151)
152. J. Slack, ‘Enemies of the People’ *Daily Mail* (4 November 2016). [↑](#footnote-ref-152)
153. E.g. K. McCann, ‘Brexit Could Be Delayed for a Year By Remainers’ *Telegraph* (4 November 2016); R. Littlejohn, ‘We Can’t Let Brexit Be Derailed by a City Slicker and a Brazilian Crimper’ *Daily Mail* (4 November 2016). [↑](#footnote-ref-153)
154. Pearson, *Telegraph* (above n. 22); see also Q. Letts, ‘His Creamy Dimples Beamed with Self-Pleasure’ *Daily Mail* (25 January 2017). [↑](#footnote-ref-154)
155. D. Wring, ‘Going Bananas Over Brussels: Fleet Street’s European Journey’ *The Conversation* (21 June 2016). [↑](#footnote-ref-155)
156. D. Ponsford, ‘Daily Mail breached Editors’ Code with inaccurate WE’RE FROM EUROPE - LET US IN! front page’ *Press Gazette* (7 October 2016). [↑](#footnote-ref-156)
157. R. Greenslade, ‘Daily Mail Publishes Correction to Misleading EU Migrants Story’ *Guardian* (24 May 2016). [↑](#footnote-ref-157)
158. Pearson, *Telegraph* (above n. 22); see also J. Blanchard, ‘Deluded and Dangerous: Brexit Vote Fury as Farage Claims He’s a Victim’ *Mirror* (20 June 2016). [↑](#footnote-ref-158)
159. Slack, ‘Enemies’, *Daily Mail* (above n. 152). [↑](#footnote-ref-159)
160. J. Doyle, ‘Champions of the People’ *Daily Mail* (25 January 2017) (focused on the dissenting judgments) [↑](#footnote-ref-160)
161. Pearson (above n. 22). [↑](#footnote-ref-161)
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175. *Ibid* [↑](#footnote-ref-175)
176. Hawkins (above n. 40) 149. [↑](#footnote-ref-176)
177. Ross, *Telegraph* (above n. 38). [↑](#footnote-ref-177)
178. Howard and Aikens (above n. 36). [↑](#footnote-ref-178)
179. Raab, *Daily Mail* (above n. 41). [↑](#footnote-ref-179)
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213. D. Mead, ch. X in this volume, p. X; L. Gies, ch. X in this volume, p. X. [↑](#footnote-ref-213)
214. In line with the Conservative’s 2017 Manifesto (<https://www.conservatives.com/manifesto>), Brexit has pushed debate about the Human Rights Act and the UK’s participation into the long-grass, but only for the duration of exit negotiations and the 2017-2022 parliament. [↑](#footnote-ref-214)
215. Gies (above n. 213) p. X. [↑](#footnote-ref-215)
216. Doyle, *Daily Mail* (above n. 160); Dominiczak, *Telegraph* (above n. 209). [↑](#footnote-ref-216)
217. Gies (above n. 213), p. X. [↑](#footnote-ref-217)
218. Mead (above n. 213) p. X(Hitchens). [↑](#footnote-ref-218)
219. Mead (above n. 213) (only claimable by certain groups), p. X; In this way, Drywood and Gray’s cogent arguments about the ‘doubly foreign’ depiction of the ECHR is equally applicable to the EU, see ch. X in this volume. [↑](#footnote-ref-219)
220. Mead, (above n. 213), p. X(West). [↑](#footnote-ref-220)
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222. Asthana, *Guardian* (above n. 43). [↑](#footnote-ref-222)
223. Background Briefing Notes to the Queen’s Speech 2016, p. 48:

 [www.gov.uk/government/publications/queens-speech-2016-background-briefing-notes](http://www.gov.uk/government/publications/queens-speech-2016-background-briefing-notes) [↑](#footnote-ref-223)
224. Cameron, *Letter to Donald Tusk,* (above n. 11) p. 5. [↑](#footnote-ref-224)
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229. C. Murray, Ch. X in this volume, p. X. [↑](#footnote-ref-229)
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231. Murray points to press concerns about the impact of Art. 8 ECHR on press freedoms (above n. 229), p. X. [↑](#footnote-ref-231)
232. Murray (above n. 229), p. X. [↑](#footnote-ref-232)
233. *Ibid.* [↑](#footnote-ref-233)
234. Cameron MP, HC Deb, vol.517, col.921 (3 Nov 2010). [↑](#footnote-ref-234)
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