

Chapter 1

Brexit: Using Gender and Queer Lenses

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1. It's not only about trade and migration

On 23 June 2016 the people of the United Kingdom (UK) voted in a referendum narrowly in favour of leaving the European Union. This historic result, which has led to the UK Government's decision to end the UK's more than four-decade long membership of the European Union (EU) in 2019, has important consequences that will be felt far into the future. Such consequences may affect people across the EU and beyond, but the greatest impact will be felt by individuals living in the UK.

Some people will meet the challenges that lie ahead with resilience and will take full advantage of the opportunities that regaining some law-making competences and a new form of politics promise. Other may be less fortunate and may see the rights and protections offered by the EU starkly withdrawn, leaving them more vulnerable and with diminished horizons and fewer prospects and resources than previously.

Much has been said about Brexit, but the bulk of the debate and commentary has focused broadly on matters such as trade and migration (see section 2). Very little has so far been said about the way Brexit matters from gender and queer perspectives.¹ This collection examines the opportunities and challenges, the rights and wrongs, and the prospects and risks of the Brexit debate from this particular perspective – that of gender and sexuality. Women and gender and sexual minorities have been historically marginalised and their voices have tended to be less audible in political debates – both nationally and at the European level. In essence, this collection explores how Brexit might change the equality, human rights and social justice landscape, but from gender and queer viewpoints. We envisage that Brexit will impact upon women and gender and sexual minorities in a variety of ways and will potentially present particular challenges for these groups.

Our starting point is the breakdown of voting in the referendum which demonstrates that, overall, men and women do have different views of Brexit (as do different generations) (Cain 2016; Clarke et al. 2017). Furthermore, in the political sphere, and in terms of party politics, Brexit has seen opportunities created for female politicians and paved the way for Britain's second female Prime Minister. Additionally, Brexit impacts upon a myriad of policy areas that are highly important to women and gender and sexual minorities – employment law, discrimination law, single market, free movement, migration, citizenship rights, to name but a few.

This collection will examine a number of core themes and poses fundamental research questions around the barely recognised gendered and queer dimensions of Brexit, exploring the risks and opportunities for women and queer communities in the UK and in Europe. These questions include, but are not limited to the following:

¹ 'Queer' will be used in this context to refer to all non-heterosexual and non-cisgender dimensions of the Brexit debate. The term 'queer' will be used interchangeably with 'sexual and gender minorities'. We acknowledge that not everyone we wish to refer to may identify with either one or the other, but we will use them as shorthand for practical reasons.

- What does Brexit mean for women and queer people in politics in Britain today?
- How will women's and gender and sexual minorities' human rights be affected by Brexit?
- How does Brexit impact upon debates in the UK on intersectionality?
- What is the impact of withdrawal from the single market on women and gender and sexual minorities, particularly in relation to free movement rights?
- What is the impact of Brexit trade policy for women and gender and sexual minorities?
- What does Brexit mean for citizenship and national identity from gender and queer perspectives?
- What is the impact of Brexit on children and families and does this have a gender or queer dimension?
- Is there a gender and queer perspective on Brexit and devolution?
- What can be learnt from other countries about the potential impact of Brexit for women and gender and sexual minorities?

This collection will answer these and other questions by offering a multidisciplinary, policy-oriented and intersectional analysis of Brexit from a gendered and queer perspective. The importance of doing this becomes even clearer, if one considers the academic and policy debates about Brexit so far.

2. A myriad of takes on Brexit

Academic and policy commentary on Brexit has been extensive and has led to prolific activity in practically all academic disciplines and policy sectors. In the light of the continuous outpouring of Brexit news and developments, the most obvious outlet for such commentary has become blogs, amongst them *The UK in a Changing Europe*,² the *LSE's Brexit blog*,³ the *Monckton Chambers' Brexit blog*,⁴ *The Brexit Blog*,⁵ and the *CEP Brexit Blogs*.⁶ These outlets consider a range of relevant aspects, most frequently relating to trade and migration issues. In such blogs, we can also find some short pieces on the gender dimensions of Brexit, such as in relation to residency rights and child care (Shutes 2017), the views of women on Brexit (Guerrina, Haastrup and Wright 2016), gender dimensions of Brexit beyond employment rights (Guerrina 2016), the EU's contribution to gender policies in the UK (O'Brien 2016), and women's participation in the Brexit political process (Achilleos-Sarll 2017). On the queer dimensions of Brexit, there are also some blog pieces, although these are rare (Danisi, Dustin, and Ferreira 2017). Equally, as blog pieces, these are necessarily short and present very narrow analyses of particular issues.

More encompassing, complex and nuanced analyses of the gender and queer dimensions of Brexit can be found in a handful of journal articles. Amongst these, it is worth mentioning pieces that have explored the overall gendered dimension of the Brexit process (Guerrina and Masselot 2018), links to political developments across the Atlantic (Hozic and True 2017), family life and migration (Majella 2017), political parties' voting choices (Heppell et al. 2017) and the impact of Brexit on UK's equality law (Wintemute 2016). These and other journal articles demonstrate a developing academic interest in the gender and queer perspectives on Brexit, but are far from exhaustive of this theme.

² <http://ukandeu.ac.uk>.

³ <http://blogs.lse.ac.uk/brexit/>.

⁴ <https://www.monckton.com/brexit-blog/>.

⁵ <http://thebrexitblog.ideasoneuropa.eu/>.

⁶ <http://cep.lse.ac.uk/BREXIT/blogs.asp>.

Several longer pieces, namely monographs and edited collections, have also explored Brexit. Some have adopted encompassing approaches, attempting to consider a broad range of angles (Fabbrini 2017; Kern et al. 2018), others have concentrated on the causes, negotiation process and future avenues (Armour and Eidenmüller 2017; Armstrong 2017; Clarke et al. 2017), and yet others have focused on particular issues in the post-Brexit era, such as the relationship with the Commonwealth (Clegg 2017), the financial services sector (Kern et al. 2018), and the international economic position of the UK (Morgan and Patomaki 2017). These books show a growing interest in the academic debate about Brexit, but none of these deals explicitly with the gender and queer dimensions of Brexit.

The dearth of academic and policy analysis of the gender and queer angles on Brexit needs to be addressed, and this edited collection will go a long way in filling this worrying gap in scholarly and policy debate.

3. Setting the context, assessing the impact, listening to devolved voices and looking beyond our borders

To answer the questions posed above and thoroughly assess the Brexit debate from gender and queer perspectives, in this collection we present a broad range of contributions that help to understand the context for this debate, assess the possible impact of Brexit on the UK, its component nations and the EU, and also what repercussions there may be for relationships between the UK and the rest of the world. The contributions collected here have been authored by academics and activists from the UK, other European countries and beyond, including both internationally established and promising scholars and lobbyists. In this way, the collection reflects a variety of opinion, new thinking and unpublished research on this subject matter, both from academia and NGOs.

The collection is divided into four parts. Part I lays out the foundations for gender and queer analyses of specific policy areas and transversal themes that are provided in the rest of this collection. Part II then gathers several contributions that concentrate on how Brexit will have an impact in the UK on particular areas of legal and policy activity. Part III moves on to focus on the views of devolved jurisdictions in the UK. Finally, Part IV complements all the previous contributions by considering how Brexit may have an impact beyond the UK and EU spaces.

Thus, following on from this first introductory chapter briefly exploring why Brexit matters for women and queer individuals and why it is important to adopt gender and queer lenses to analyse Brexit, Part I of the collection continues in Chapter 2, with Achilleos-Sarll and Martill's contribution which argues that the campaign for Britain to leave the EU and the subsequent Brexit process have been dominated by discourses of toxic masculinity. These discourses, it is argued, have manifest themselves in two distinct ways: firstly, through the deployment of language that was associated with deal-making, and, secondly, through the deployment of language associated with militarism. This has been compounded by a campaign that has been dominated by a coterie of elite, white males – whose values have come to define the discourses surrounding the negotiations, which produced and (re-)produced power relations, prejudices and myths during the Brexit campaign, and now with regards to the content of a Brexit 'deal'. Drawing on a combination of critical feminist theory, documentary analysis and elite, semi-structured interviews with individuals close to the process, Achilleos-Sarll and Martill discuss the extent to which Brexit has been dominated by discourses of militarism, which overinflated Britain's assumed global role in the world emphasising strength, security, global power and deal-making. These discourses have tended to equate the negotiations to a business transaction, positioning Anglo-European discussions in conflictual terms. Achilleos-Sarll and Martill conclude with four potential (gendered) consequences of these

discourses: setting the UK on the path towards a 'harder' Brexit; the consolidation of free-market norms and retrenchment of social policies; the diversion of attention from domestic to international distributional consequences; and the persistent under-representation of women and minority groups in politics. In Chapter 3, Gill and Ahmed further help to understand the relevant context for this collection, by examining Brexit's specific impact on the lives of black and minority ethnic (BME) women. In the immediate aftermath of the referendum result, BME women became the focus of an outpouring of racist and Islamophobic attacks and assaults, and Gill and Ahmed examine this impact through two prose-poetic creative pieces written by themselves as British Asian authors. Through these personal pieces, Gill and Ahmed trace the embodied effects of the referendum result upon the everyday lives of BME women. By using creative methods, Gill and Ahmed are able to represent and reflect upon Brexit in all its contradictory multiplicities. Such methods also enable Gill and Ahmed to view Brexit's consequences using an intersectional feminist lens, and thus consider the effect Brexit is having, and will continue to have, on gender, race, religion and class relations.

Part II is opened by Caracciolo di Torella, who, in Chapter 4, explores the potential implications of Brexit on work-life balance. Caracciolo di Torella maintains that, although in this area the EU has not been above criticisms, it has been instrumental in shaping an agenda and creating a policy and normative framework that has enhanced the position of carers and counterbalanced the UK's neoliberal approach. This chapter identifies three possible scenarios that may materialise in terms of how the UK Government will address future legislation: a *status quo*, a progressive and a regressive scenario. Caracciolo di Torella not only argues that the regressive scenario is the most likely and that leaving the EU is likely to jeopardise any achievements in this area, but also asserts that the consequences of Brexit will be felt correspondingly by the EU, thus there being no 'winners'. In Chapter 5, Dyi Huijg explores the impact of the UK's departure from the EU on the UK's National Health Service (NHS), specifically on health, healthcare and social care available to people with disabilities and illnesses. Dyi Huijg adopts an intersectional, disability-oriented critical analysis of Brexit to assess health management, care, and social and medical barriers for EU migrants in the UK. This, in turn, highlights another side of the gendered character of Brexit and situates Brexit in a context of hostility against both disabled people and migrants, specifically, and points to the role that health management plays in migration control and the gender dimension of the roles of migrant carer and patients. Walker's contribution in Chapter 6 considers the opportunities and losses arising from Brexit in the context of cross-border family law. Walker concentrates on the main legal provisions that will be affected by Brexit in this context, namely Brussels IIa, the Maintenance Regulation and the Civil Protection Order Regulation. Walker considers from a gender perspective the effect that Brexit will have on the relevant procedural rules, affecting areas such as child abduction, divorce, maintenance, domestic violence and parental responsibility. In family law, the role of caring has gender-based consequences, such as loss of earnings from employment; therefore, the ongoing enforcement of orders in this context is imperative post-Brexit. There are several mechanisms for ensuring this ongoing enforcement, but in some areas there will be gaps in the law. Walker highlights where these gaps might be and explains why there is currently no solution in these areas. In Chapter 7, Solanke argues that an intersectional analysis of Brexit suggests that Black British children are the forgotten victims of the decision to leave the EU. Owing to the nationality of their primary carer – most commonly women – their rights as British and EU citizens have been pushed aside in the Brexit negotiations by both the European Commission and the UK Government. Solanke focuses attention on the '*Zambrano* children' born to third country national parents and incorporates their interests in the process of leaving the EU. Solanke concludes that if these infants are to continue to enjoy their full rights as British and Union citizens after Brexit, their parents must enjoy the full rights enjoyed by migrant EU citizens in the Withdrawal Agreement.

In Chapter 8, contributed by Lusmen, the focus shifts to the protection of unaccompanied minors (UAMs). Lusmen discusses the implications of Brexit on UAMs from a gender perspective, by arguing that male UAMs, in particular, will be most affected by it. Without the EU regime (legal and policy) of rights protection, male UAMs in the UK will face reduced children's rights protection, lack of specific safeguards for UAMs, such as guardianship, and, therefore, will be exposed to the risks of child trafficking and exploitation. Remaining within the policy field of asylum, Chapter 9, by Querton, examines the likely impact of Brexit on refugee recognition in the UK from a gender perspective. Querton applies a gender lens to a historical analysis of the impact of the Qualification Directive 2004, part of the Common European Asylum System (CEAS), on asylum practice in the UK. Querton suggests that, considering historic practice and existing international and regional refugee and human rights obligations, leaving the EU is unlikely to immediately and significantly have an impact on decision-making in gender-related asylum claims. Nonetheless, Querton also highlights the risks associated with the loss of an (EU) legal framework underpinned by fundamental rights and effective remedies. Querton concludes that leaving the EU may contribute to a hostile environment, with consequences for asylum law, which in turn will have an impact on the recognition of refugees from a gender perspective.

Complementing the gender analysis of Brexit with a queer perspective, Danisi, Dustin and Ferreira, in Chapter 10, assess the potential impact of Brexit in relation to the situation of lesbian, gay, bisexual, trans, intersex, queer and other (LGBTIQ+) individuals. Danisi, Dustin and Ferreira argue that, despite the very limited consideration of sexual orientation and gender identity (SOGI) issues in analyses of Brexit, there is no doubt that Brexit will affect SOGI minorities on a range of levels, including likely serious effects in terms of human rights and equality policy, 'soft law' instruments, socio-cultural environment, economic resources, regional variations within the UK and civil society vibrancy. This conclusion emerges from the authors' examination of UK achievements in this field when compared to the developments occurred at EU level to advance, directly and indirectly, the full enjoyment of LGBTIQ+ people's rights, both through hard and soft law tools and the case law of the Court of Justice of the EU. Danisi, Dustin and Ferreira thus conclude that it is necessary to remain alert to legal and policy developments that may detrimentally affect SOGI minorities both in the UK, when the EU will stop working as an external 'standards setting' actor, and in the EU, when the UK will stop supporting the advancement of the EU's equality agenda. Offering another queer analysis of Brexit, Dunne, in Chapter 11, critically evaluates the likely consequences of Brexit for SOGI rights. He identifies the key EU contributions to LGBTIQ+ protections in the UK and considers the status of those guarantees beyond Union membership. While Dunne acknowledges how the EU – both symbolically and practically – has helped to re-shape queer intersections with law in this jurisdiction, he nonetheless argues that, for many reasons (political and legal), Brexit is unlikely to fundamentally alter existing rights and entitlements.

Part III of the collection concentrates on specific views and concerns from devolved jurisdictions within the UK. In Chapter 12, Weldon-Johns examines the Scottish Government's desire to maintain ties with EU law post-Brexit in the context of employment and equality law, particularly in relation to those laws that have an impact on work-family conflict. Weldon-Johns critically examines whether there is, or could be, a distinctly Scottish perspective in the context of work-family rights post-Brexit, particularly from a gender perspective. Weldon-Johns argues that the rights of working fathers will be most vulnerable post-Brexit, with related consequences for working mothers. Weldon-Johns also argues that although Scotland adopts a potentially distinct approach in the fields of employment and equality law, the current legal frameworks do not enable Scotland to retain continuity with EU law. Weldon-Johns concludes that if Scotland were to gain law-making powers in these fields, there is the potential for a distinctly Scottish approach towards work-family conflict post-Brexit. Ritch contributes with Chapter 13, again focussing on Scotland. Ritch explores the levels of engagement of women and women's organisations in the two referenda over the

past five years, first on Scotland's place in the UK and then in the EU. Ritch argues that the level of engagement with these two referenda has differed considerably, with the independence referendum having seen the establishment of new women's organisations and networks to counteract a seeming marginalisation of women's concerns in the official campaigns, whilst the European referendum saw limited national public engagement by women's and other civil society organisations, and lacked a particular gender focus even in feminist spaces. Ritch also discusses how Scottish feminist policy organisations are contemplating further devolution and how they can continue to engage post-Brexit with pan-European feminist structures like the European Women's Lobby, and its joint campaigning for (still) relevant instruments such as the Istanbul Convention.

Chapter 14, by Galligan, offers us a Northern Irish perspective on the Brexit vote, and the possible consequences of Brexit for Northern Ireland, from a gender point of view. Galligan outlines the constitutional and policy challenges of Brexit for Northern Ireland, the Republic of Ireland, and the UK-Ireland relationship. Galligan also considers gender differences in the Brexit vote, before addressing in a substantive manner the perceptions of women as to the likely obstacles and opportunities that Brexit can bring. Galligan concludes that Brexit necessarily destabilises the hard-won gains of the peace process and will have negative consequences for political and diplomatic relationships across and between the two jurisdictions. Significantly, for women on the island of Ireland, and particularly in Northern Ireland, Brexit heralded the prospect of unwanted change in the materiality of their lives.

Part IV considers the impact of Brexit beyond the UK and EU spaces. In Chapter 15, Barrow explores the implications of Brexit on the EU's defence and security policy through the lens of gender. Barrow considers in particular the UN women, peace and security agenda, supported by the EU, namely through the mainstreaming of gender in the EU's Common Security and Defence Policy (CSDP). Barrow asserts that these important policy developments are at risk and concludes that, whether the UK and the EU negotiate a 'hard' or 'soft' Brexit, the integration of a gender perspective in defence and security policymaking may be undermined and have detrimental consequences. Stephenson and Fontana, in Chapter 16, shift the focus to the potential economic and trade impact of Brexit from a gender perspective. Stephenson and Fontana build on the well-established knowledge that trade agreements can have significantly varying impacts on different groups of women and men, as a result of differences in economic position, caring responsibilities and political power. Stephenson and Fontana assess the gendered impacts of the possible trade agreements that the UK will enter into post-Brexit, by focussing on the implications of trade agreements for employment, for consumption and for the provision of public services. By identifying the key gender issues to consider, Stephenson and Fontana offer advice on the best trade agreement avenues to follow. In Chapter 17, Holst, Skjeie and Teigen bring to the fore the Norwegian perspective, often hailed as a possible model the UK might follow. Norway has, since 1994, been a Member State of the European Economic Area (EEA) Agreement. This Agreement made Norway a full participant in the EU's internal market, including in the area of gender equality policy. Holst, Skjeie and Teigen take issue with a 2012 comprehensive public inquiry report on the consequences of Norway's affiliation status that concluded that EEA commitments and other EU agreements had limited impact on the scope and content of actual policy-making in the gender area. Holst, Skjeie and Teigen thus critically examine this claim through a discussion of EU influences on four core gender equality policy themes: anti-discrimination law, work-life balance, gender mainstreaming, and gender quotas for corporate boards. Holst, Skjeie and Teigen conclude that Norway's affiliation status has, in fact, been relevant to policy development in this area. Finally, in Chapter 18, we offer some concluding remarks on the overall theme of gender and queer perspectives on Brexit, drawing from key insights in the contributions to this volume and advancing some future lines of research which hopefully will continue to advance the debate in this area.

We are conscious that this collection does not exhaust all the possible issues that deserve to be unearthed and critiqued from gender and queer perspectives in the context of Brexit. Indeed, at the event *Looking Forward: Gender and Equality post-Brexit*, held at the UK Parliament in July 2018 and co-organised by the University of Sussex and the Equality and Diversity Forum Research Network, discussions brought up yet another plethora of gender-related issues that grass-root groups and practitioners in diverse fields are having to face as a consequence of the EU referendum and the prospect of Brexit.⁷ These issues crop up when least expected and have intricate and intersectional implications that require much sophisticated analysis, informed debate and ethical viewpoints. This will be the task of a life-time, however, we are confident that this collection sets us on the right path to face the challenges ahead.

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