

Towards a post-Brexit ‘partnership for democracy’ between the EU and the UK

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Democracy and human rights are British values as much as European ones. The EU has been a major force in the democratisation of the European continent, and has actively contributed to the promotion of democracy in other regions of the world. But this important task may become more difficult if Brexit finally occurs. The UK is a major diplomatic, military and economic power, and a consolidated democracy that provides political inspiration world-wide. Brexit has the potential to weaken the capacity of both the EU and the UK to promote their shared values. As with many other aspects, with regards to the promotion of democracy and human rights, Brexit would be detrimental to the interests of both parties.

Unlike in other areas, where the UK and the EU will unavoidably have conflicting interests, the protection of democracy and human rights is a field in which the values of the two parties fully match. Cooperation in this area should therefore be easy to achieve and be a matter of common interest. This Elcano Comment defends that such cooperation should be

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institutionalised by means of a ‘**partnership for democracy**’. Furthermore, it considers that there are elements in the approach to external policy of both the EU and the UK that could facilitate this. The **European Union Global Strategy** recently made it clear that the promotion of democracy should be one of the guiding principles of EU action. At the same time, the Global Strategy document refers to ‘partnership’ with other ‘states, regional bodies and international organisations’ as key to the EU’s external action. Simultaneously, the recent *White Paper* of the British Government on ‘The United Kingdom’s exit from and new partnership with the European Union’ makes clear the will of the UK to ‘promote the values the UK and EU share – respect for human rights and dignity, democracy and the rule of law both within Europe and across the wider world’. There are therefore elements that point to a potential willingness on both sides to cooperate on issues of protecting and promoting democracy. However, potential cooperation has so far lacked concretion.

In this regard, at least five lines of action can be suggested as a starting point for discussing the potential ‘partnership for democracy’ between the UK and the EU. Nevertheless, this initial proposal should preferably be modified and improved through dialogue between academics, civil society organisations and policy-makers:

1. First, the **UK should support the EU's efforts to protect democracy and human rights in its Member States**. During the eventual exit negotiations, the clearest expression of this support would be for the UK to abstain from using as a bargaining tool the tensions between the EU and Member States examined or sanctioned under **Article 7** of the Treaty on the European Union. Article 7 TEU allows the EU to determine the existence of a breach of democratic values in a Member State and to eventually sanction it for that reason. Art.7 TEU is a core tool for the protection of democracy in the continent. The EU should make it clear that such diplomatic support from the UK is a prior condition for negotiations in good faith and for post-Brexit good neighbourly policy. Democracy in the European continent is a hard-won achievement, to which the UK made a major and costly contribution. Any action detrimental to the maintenance of democracy aimed at maximising short-term benefits would imply a greater long-term damage for both parties. After a potential Brexit, any deal between the UK and the EU should include, as part of a 'democratic partnership', the commitment of the UK and the EU to work together to maintain democracy in EU Member States. To that end, the UK should use its diplomatic power to support, rather than hinder, the EU in any potential enforcement of Art.7.
2. During the Art.50 negotiations and following a potential Brexit, the UK should adopt a policy of democratic conditionality that complements the approach of the EU when negotiating with **third countries**. The principle of democracy promotion in external action is solidly anchored in the EU's legal system. Article 3 of the Treaty on the EU establishes that 'in its relations with the wider world, the Union shall uphold its values' –which according to Art.2 TEU include democracy– and contribute to the protection of human rights. The EU has successfully used democratic conditionality when negotiating with States that are candidates for accession, and also in negotiating other types of agreements with third countries. This strategy has contributed to the expansion and consolidation of democracy in the world through peaceful means, but the UK's exit would undermine the EU's negotiating position vis-à-vis third countries. The UK's negotiating position to promote democratic values through conditionality, for instance in trade deals, would be even much weaker. For that reason, both the UK and the EU should coordinate to maximise their joint bargaining power. While coordination, after a possible Brexit, would obviously be more difficult and less effective than it has been so far, coordination as part of a 'democratic partnership' could take the form of regular institutionalised meetings between the two parties and trilateral negotiations with third countries in which both the UK and the EU pushed for democratic conditionality.
3. More generally, the UK and the EU should adopt complementary diplomatic approaches in the defence of democratic institutions and values at a time when they seem increasingly questioned. Recently, Chancellor Angela Merkel offered the new US President Donald Trump cooperation based on 'common values' of democracy, freedom, rule of law and human dignity. This values-based approach to cooperation with other actors should be the structuring principle of the diplomatic action of both the EU –and its Member States– and the UK. So far, however, **Theresa May seems to be emphasising economic interests rather than values in her approach to foreign policy**, probably because of the UK's

weakness in the context of Brexit and its need to obtain trade deals. This British attitude, in turn, also weakens the EU's capacity to promote those very values in the world. Again, this is detrimental to the world-view of both the UK and the EU, and an early example of the type of problems that Brexit will entail. In the long run, and more in general, the lack of coordination between democratic powers can only benefit the enemies of democracy. For that reason, some degree of foreign-policy coordination between the UK, the EU and its Member States in matters that affect democracy is more urgent than ever. Coordination should be institutionalised, including an explicit reference to these values in any post-Brexit deal and their discussion in the regular bilateral meetings to which reference has been made above.

4. There is also the important question of the **European Convention of Human Rights**. The ECHR plays a very important role in the preservation of human rights in the continent, and it is particularly relevant in countries dominated by authoritarian or semi-authoritarian political actors. A potential British withdrawal from the Convention would dramatically undermine the mechanism's reputation and effectiveness, opening the door for authoritarian politicians to follow the move or simply ignore the decisions of the European Court of Human Rights. For that reason, **UK membership of the Convention is vital for its stability**. The EU should include this membership as part of the negotiations with the UK under Article 50. There is a strong legal basis for this. First, if democratic conditionality and the promotion of human rights underpin the EU's external action, there is no reason why that should not be the case when negotiating with a future third party such as the UK would be. Secondly, Article 6 TEU foresees accession to the Convention by the EU and considers the rights therein protected as a general principle of EU law, thus making clear its importance for the Union.
5. As a corollary, the potential post-Brexit economic and trade deals between the EU and the UK might be made conditional to respecting some or all of the provisions of the 'democratic partnership'. In other terms, economic and political aspects could be negotiated separately, but then the former could be made conditional on respecting the latter. For the EU, this conditional approach would, again, simply be an expression of its general commitment to promoting democracy that the treaties foresee, and thus would be fully justified from a legal perspective and entirely legitimate from a political one. For the UK it would be an expression of its own values and its political interest in a democratic European order.

A 'democratic partnership' between the EU and the UK would be a win-win situation for both parties, as it would maximise their capacity to protect and promote their shared values. But it could also be the seed for even more ambitious projects. Democratic partnerships open up the possibility of creating solid, post-national institutionalised forms of democratic cooperation between nations and even between regional organisations. The EU-UK partnership for democracy would create the mould for similar agreements with other European countries, or even countries or organisations from other regions of the world. If successful, the EU-UK partnership for democracy could even be opened up to the accession of third countries. In the horizon, the ambition could be the creation of continental and even global partnerships for democracy, going beyond mere rhetorical

declarations and committing international actors through enforceable rules and institutionalised practices. This would be in line with the Global Strategy for the EU's Foreign and Security Policy, which refers to an EU committed 'to a global order based on international law, which ensures human rights'. In an era in which authoritarian populists have already started to cooperate, partnerships between democratic actors are more necessary than ever.