

BOOK REVIEW

Brexit and Agriculture

by Ludivine Petetin and Mary Dobbs, London, Routledge, 2022, 374 pp.

Miranda Geelhoed 

Independent researcher

Email: miranda.geelhoed@gmail.com

Agriculture was a topic that featured prominently in the Brexit campaign, which led to 51.9% of those registered to vote in the referendum calling for the UK to leave the European Union (EU).¹ Agriculture's significance for Brexit (or vice versa) follows from the fact that agriculture has been a central component of European integration, and it is impacted significantly by trade laws that regulate standards, market access and competition. The UK's utilised agricultural area also makes up 71% of its total land area and produces around 60% of domestic food by value.² Within this wider context, as stated by Michael Gove, then Secretary of State for Environment, Food and Rural Affairs, in the 2018 Health and Harmony consultation on the future of agricultural policy in England – cited in the book under review – Brexit promised opportunities to “design a more rational, and sensitive agriculture policy which promotes environmental enhancement, supports profitable food production and contributions to a healthier society”.³

The book *Brexit and Agriculture* by Ludivine Petetin and Mary Dobbs (Routledge's series “Legal Perspectives on Brexit”), written half a decade after the Brexit vote, gives important insights into whether Brexit has delivered/is delivering on its bold promise. The book aims to outline proposed policies at the UK level and across the four nations – England, Wales, Scotland and Northern Ireland – insofar as details were available. Its premise is that all proposed policies follow a two-pronged structure of pursuing environmental (“public money for public goods” or similar) and productivity objectives, mirroring the two EU Common Agricultural Policy (CAP) pillars. This book evaluates UK and devolved proposals through a multi-level governance lens, looking at “hard” parameters under international trade law and the UK's internal agreements on decentralisation or devolution of power, as well as new legal measures that reshape pre-Brexit parameters, such as the Internal Market Act 2020. It also considers “softer” parameters of path dependency in relation to the financial resources necessary to fund agricultural policies across the devolved nations, which come from Westminster, and the influence of past and future CAPs – in the case of Scotland, with an express commitment to continued alignment in devolved matters

¹ The Electoral Commission, “23 June 2016 referendum on the UK's membership of the European Union” (Report 23, 2019) <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/elections-and-referendums/past-elections-and-referendums/eu-referendum/report-23-june-2016-referendum-uks-membership-european-union> (accessed 27 August 2023).

² “Food Security in the UK” (ADHB, 23 March 2022) <https://ahdb.org.uk/news/food-security-in-the-uk> (last accessed 27 August 2023).

³ DEFRA, “Health and Harmony: the future for food, farming and the environment in a Green Brexit” (Consultation Document, February 2018), p 5.

(UK Withdrawal from the European Union (Legal Continuity) (Scotland) Act 2021). Lastly, the book aims to provide alternative, future-looking and ambitious goals for agriculture and agricultural policies, notably using the concept of socio-ecological resilience.

Chapter 2 focuses on *existing* UK international and internal relationships and obligations (described as a “web of powers and obligations”) within which agricultural policies and practices are developed. These include multilateral relations under the World Trade Organization (WTO), including the Agreement on Agriculture, bilateral free trade agreements and UK/EU relations, notably under the Northern Ireland Protocol. It is noteworthy that Northern Ireland has a unique position as it is no longer in the EU, but it is treated as if it is to a significant extent, whilst it is also part of the UK’s customs territory. This chapter also considers internal relations and powers under the Devolution Settlements – with agriculture and environment being devolved powers – and the sovereignty of the Westminster Parliament.

Chapter 3 delves deep into the four post-Brexit agricultural policies, albeit with a stronger focus on England and Wales due to the level of detail of proposals available at the time of writing. This analysis includes the UK Agriculture Act (which focuses on England) and provides comparisons of England’s “public money for public goods” proposals and the Environmental Land Management Schemes (ELMs), Wales’s Sustainable Farming Scheme, Northern Ireland’s Draft Agricultural Strategy and Scotland’s Agricultural Transformation Programme.

Chapter 4 challenges the objectives – or lack thereof – and workings of the proposed agricultural policies analysed in Chapter 3, and it offers an alternative ambition: namely, a socio-ecologically *resilient* agriculture. The latter would demand high standards, access to diverse and valuable markets and supply chains, meaningful stakeholder engagement, political accountability and coherent multi-level decision-making. This chapter also introduces various pathways towards resilient agriculture, integrating economic, environmental and social aims. These include systems that reward the delivery of socio-ecological services and that can be result- or outcome-based, systems that move agriculture towards net-zero emissions, systems that reward agroecology and systems that support agri-food democracy, including through farmer-focused supply chains. It also considers how policies are tailored according to their context through an analysis of their impacts on the diversity of farms and governance, monitoring and enforcement and integrated (including landscape-scale) approaches.

Chapter 5 places these comprehensive evaluations in the wider context of an *evolving* multi-level governance framework. This relates to new and altering trade relations considering the impacts of the Trade and Cooperation Agreement (TCA) between the EU and the UK and other free trade agreements, as well as changing internal relations due to the sweeping and game-changing Internal Market Act.

Lastly, Chapter 6 brings it all together and provides practical recommendations for realising resilient agricultural policies.

The authors deserve a round of applause for their successful unpacking of a changing multi-level framework in the developments of post-Brexit agricultural policies and for a very comprehensive analysis of proposals across *all* UK nations. The book reflects the authors’ bravery, as the complexity of the legal landscape and draft measures, combined with the fast-changing pace of policy and governance and the highly political nature of the topic, means that many a legal scholar would not have dared to touch this topic with a ten-foot pole. Despite its complicated content, the authors have done a great job of explaining the issues in clear terms that in many instances could easily be understood by both legal and non-legal audiences. This is confirmed by the endorsement from key academic *and* civil society stakeholders in the first pages of the book. Accessibility of information relates notably to the parameters of post-Brexit agricultural law and policymaking (current or in the making) and the possibilities for ambitious reform, with the latter broken down into

pathways and themes including types of farms (size, tenure, etc.), governance structures and monitoring and control mechanisms.

The book takes an integrated approach to agricultural policy, also looking at questions of environmental and land reform, including reflections on food policy (eg supply chains). The integration of reflections on UK international relations with internal dimensions also makes important contributions to understanding the potential effects of Brexit on devolved competences, which only adds to the holistic character of this research and its potential for integrated learning. Indeed, the efforts that must have gone into understanding – at least at a basic level – these developments across the UK nations should not be underestimated, and with those efforts alone this book has progressed scholarship on post-Brexit reform, which has often been focused on England. Comparative insights into best policy practices are plentiful (eg in relation to minimum standards, claim sizes, innovative enforcement mechanisms and integrative food policies). It is a comforting thought that the authors are, in different capacities, advising public authorities across the UK on agricultural reform because these key findings should not be confined to the medium of a 300-page book. This does not mean, however, that this book will not appeal to an academic audience of international, EU and UK lawyers. For better or for worse, Brexit is breaking legal ground, and the authors' analysis of legal measures, provisions and topics such as the Northern Ireland Protocol, the TCA and its innovative level playing field provisions, the Internal Market Act and the many emerging legal specificities of post-Brexit agricultural policies will intrigue many legal researchers. The authors rightly point out that – although the focus of the book is on the evolution of agricultural policy in the UK – its lessons are largely applicable beyond this specific context.

Yet two critical observations must be made. Firstly, it is to be expected that some of the content of this book has been swiftly superseded by time, but in some places the reader will have to be particularly aware of this risk, as well as of the risks that some national examples of good practice may have been appraised without a full socio-legal comprehension of the context within which they came to be. For example, in various places the book hails the Scottish approach to co-design as a success, notably with reference to the multi-stakeholder advisory “Farming and Food Production Future Policy Group”. This group was, however, prevented from officially publishing its report (it was controversially made public through a Freedom of Information request),⁴ and subsequent engagement was held to be “dysfunctional” in the view of eighteen representative farming organisations.⁵

Secondly, and more fundamentally, the authors' study of resilience as an alternative narrative for guiding agricultural reform would benefit from further in-depth study to ensure consistency and enhance its conceptual value. This concern should not be overstated – the authors are absolutely right to conclude that the focus of reforms across the UK has been on “filling the short-term gaps created by Brexit” and that they lack long-term aspirations and objectives, so their offering of a forward-looking, ambitious framework is more than laudable. However, more normative unravelling of concepts would be necessary to ensure that the suggested “complementary” pathways of socio-ecological services, net-zero agriculture, agroecology and agri-food democracy are adequate and equipped to provide for *resilient* reform – with an ambition towards resilience requiring trade-offs. For example, agroecology – which is not to be confused

⁴ D Long, “Where is the future for Scotland’s food and farming sectors?” (*Scottish Environment LINK*, 11 June 2021) <https://www.scotlink.org/where-is-the-future-for-scotlands-food-and-farming-sectors/> (last accessed 27 August 2023).

⁵ J Sleight, “Emergency stakeholder meeting over Ag bill consultation – ‘If we get the legislation wrong now, the repercussions will be felt for generations’” (*The Scottish Farmer*, 12 September 2022) <https://www.thescottishfarmer.co.uk/news/21302241.emergency-stakeholder-meeting-ag-bill-consultation—if-get-legislation-wrong-now-repercussions-will-be-felt-generations/> (last accessed 27 August 2023).

with “regenerative practice” or “nature-based solutions” – is not only under-supported by current proposals for agricultural reform, but also undermined by some of the parameters (notably of international trade law) that the book only to a very limited extent considers to be challengeable. More controversial is the “net zero” paradigm. If narrowly construed (eg if “net zero” undervalues the sequestration capacity of grasslands or the climate potential of diverse local practices such as seaweed use for fertilisation), the narrative may threaten other key objectives such as on biodiversity, and it may lead to increased competition for land as the foundation for provision of basic and essential (nutritional) services. Proposals to reduce cattle farming in favour of horticulture may also be appropriate only in specific local circumstances – a cow is not a cow, is not a cow. And proposed solutions to reduce emissions through precision agriculture may in some cases frustrate farmers’ resilience by increasing corporate influence over land management decisions. Where “co-design” is offered as a solution to mitigate potential inconsistencies, it should be kept in mind – and I speak here from experience – that such processes are often plagued by contextual inequities in participatory capacity and power, most notably in relation to agroecological producers.

The above is in no way to call into question the great value of the research that underpins this contribution to Routledge’s “Legal Perspectives on Brexit” series. This book has covered important ground in a comprehensive way, but gaps remain due to the wide scope of the topic. It thereby offers opportunities for further research, and it is worth mentioning a few: (1) How is resilience to be understood and implemented within the specific context of UK agricultural policies? (2) How do the crystallising UK proposals and implementing measures compare to the ability of new EU CAP measures to deliver farmer resilience (eg mandatory redistributive payments in support of small-scale production)? And (3) what can in-depth socio-legal analysis tell us about the participatory processes, powers and structures that underpin the discrepancies and disparities between reforms in the UK nations?

Overall, this book makes a significant and timely contribution to legal scholarship on agriculture, food, trade, environment and post-Brexit reforms. It speaks to a variety of audiences that may not all – unlike me – want to read the book cover to cover, but its clear structure means that relevant information can be easily identified. Where the book had to limit its scope, it also provides groundwork for further research. This type of impactful research is needed desperately, and this book has shown that much is still to be done to ensure that post-Brexit agricultural policies live up to their promises.

Competing interests. At time of writing, in addition to being an independent researcher, the author was also the Policy Coordinator of the Scottish Crofting Federation.