

— LETTERS
on LIBERTY



THE SOVEREIGN SUBJECTS
OF HISTORY

Claire Fox

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Welcome to *Letters on Liberty* from the Academy of Ideas. *Letters On Liberty* is a modest attempt to reinvigorate the public sphere and argue for a freer society.

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What are Letters on Liberty?

It's not always easy to defend freedom. Public life may have been locked down recently, but it has been in bad health for some time.

Open debate has been suffocated by today's censorious climate and there is little cultural support for freedom as a foundational value. What we need is rowdy, good-natured disagreement and people prepared to experiment with what freedom might mean today.

We stand on the shoulders of giants, but we shouldn't be complacent. We can't simply rely on the thinkers of the past to work out what liberty means today, and how to argue for it.

Drawing on the tradition of radical pamphlets from the seventeenth century onwards - designed to be argued over in the pub as much as parliament - *Letters on Liberty* promises to make you think twice. Each *Letter* stakes a claim for how to forge a freer society in the here and now.

We hope that, armed with these *Letters*, you take on the challenge of fighting for liberty.

Academy of Ideas team

THE SOVEREIGN SUBJECTS OF HISTORY

A year ago, on 29 February 2020, hundreds of people piled into Stockport County Football Club for Changing Politics For Good (#CP4G). This town-hall gathering that I organised alongside my colleague Henrik Overgaard-Nielsen was the fulfilment of a promise we made when elected as Brexit Party MEPs - that we'd debate the future of politics after leaving the European Parliament. Despite Covid-19 being discussed in newspapers, we had no presentiment of its shattering impact on our physical or public life. The mood was vibrant, with attendees full of optimism and fizzing with ideas, everyone newly confident having forced the UK Parliament to at last honour the 2016 referendum result.

The atmosphere reminded me of how historian Christopher Hill, in his seminal book *The World Turned Upside Down: radical ideas during the English Revolution*, described the reaction to that period's upheaval of authority: 'glorious flux and intellectual excitement', an 'overturning, questioning, revaluing of everything'.ⁱ

Mid-seventeenth century, the streets, taverns, coffee shops and workplaces were alive with arguments generated by an explosion of popular pamphlets. That historic flowering of the public sphere inspired this very modern 2021 series of *Letters on Liberty*. And it's not an exaggeration to suggest that the struggle for Brexit had a similar impact on British politics. There, in Stockport, was an embodiment: people who, through the turbulence of fighting to be heard as voters, had found their political voice as citizens. They had discovered that their personal sovereignty meant that they had power to shape the future. They had become radicalised not simply by voting to leave the EU but by the shock of witnessing the lengths that sections of the establishment would go to thwart their democratic sovereign wishes. 'Never again' was the pledge of the day. 'What Next?' was the burning question.

A year later and Brexit is done. On 31 December 2020, the UK finally departed from the rules and regulations of the European Union. In the context of lockdown, there were no #CP4G-style gatherings, street parties or mass celebrations. How ironic - you vote to take back control from unelected technocrats in Brussels and history throws a curveball like Covid-19 at you. The response to the pandemic has been characterised by top-down policies designed by domestic, unelected public-health technocrats - surely

this makes a mockery of the Brexit demand to ‘take back control’. To add insult to injury, after four and a half years of a bitter struggle, a less-than-perfect trade agreement with the EU was steamrolled through during the Christmas period with little or no time for parliamentary scrutiny. The small print - the sell-out of the fishing industry and the wholly avoidable damage done to the union by the Northern Ireland Protocol - might suggest that Brexit was, at best, over-claimed for.

Any regrets? Not one. Brexit was never a destination, but the beginning of a new democratic settlement. And at its heart remains a key historical moment that placed the issue of sovereignty back on the agenda. Making the most of that sovereignty is the task ahead.

Sovereignty and its discontents

Proclaiming that sovereignty is the Brexit prize is not sufficient. The s-word is bandied around and often derided as being little more than a hollowed-out slogan, too abstract to be a useful measure of political progress. That dwindling section of Remain supporters who never accepted the referendum result continue to demand that those who supported a Leave

vote 'show me one positive gain from Brexit'. When leavers reply 'sovereignty', they are often met by mocking guffaws. 'You can't eat sovereignty' has become a popular refrain.

What sneering critics don't get is that however abstract a concept, voters sensed instinctively that sovereignty's rich history had something positive to add to today's democratic life. More than a word, it stands on the shoulders of centuries of philosophical and political struggles that breathed life into an ideal that has shaped and reshaped the modern world.

The key difference is the matter of accountability.

But it is not a concept without challenges. It is true that the government now regularly gives itself the power to bypass parliament by using Henry VIII clauses - deriving their name from a time that predates modern parliamentary sovereignty.

It is also true that every day before 'question time' in the House of Lords, an unelected bishop leads prayers for 'our sovereign', Queen Elizabeth, in a legislative chamber that still contains hereditary peers, Law Lords and a wide variety of political appointees who are not answerable to anyone. Despite this, they can act as a break on democratic decision-making.

Even the assertion that the EU encroached on national sovereignty deserves caveats. While some Eurosceptics argued that the EU was a foreign imposition, the enthusiasm of so many British establishment figures for remaining in the EU made it clear that many UK politicians were only too willing to let the EU take the flak for decisions they themselves were happy with. Indeed, much EU legislation was drawn up by UK representatives. They were happier to sell this to Eurocrats in Brussels, rather than face the inconvenience of having to persuade their own pesky and fickle electorate of the merits or demerits on any given legislation. When those same cut-and-paste versions of EU laws were imposed on UK citizens, popular opposition was futile as politicians complained they were forced to comply to be part of the club. In the whole process, the electorate were reduced to passive observers, effectively disenfranchised of any meaningful control over the future direction of swathes of policy that affected their daily lives.

Will Brexit change all that? Sir David Frost, the British lead negotiator in recent Brexit trade talks, argued that one of the gains of exercising sovereignty would be that: 'Britain's "good institutions and good politics"' would make sure the country would make better decisions than would emerge from the Byzantine

processes of Brussels.²ⁱⁱ Having recently encountered the civil service and House of Lords committees up close and personal, I beg to differ. There is no guarantee that sovereign law-making will automatically result in nirvana.

Simply because decisions will now be made domestically rather than in Brussels doesn't guarantee that they will be progressive. For example, the shoddy quotas allocated to the UK fishing industry can no longer be blamed on the EU's fishing rules. They were negotiated - freely - by a sovereign UK government. Boris Johnson must own that sell-out.

Brexit was the contemporary spark that allowed people to reflect on their own place in the decision-making process.

The recent vaccine debacle in the EU may well expose that supranational institution as a hyper-regulatory, centralising barrier to flexible, swift action that would give their own citizens access to life-saving medical intervention. At the same time, Britain's illiberal, bureaucratic and draconian emergency powers enacted in the name of fighting the pandemic are the result of sovereign politicians making decisions at home. For those of us who believe that lockdown regulations have often been disproportionate and flouted

democratic scrutiny by bypassing parliament, Brexit sovereignty might appear a hollow concept.

The key difference is the matter of accountability. The European Commission can never be recalled or sacked via the ballot box. The possibility of being able to punish or reward politicians for decisions made is the key to understanding why the potential of sovereignty so appealed to the electorate in 2016. Millions of people experienced the making of laws and regulations through the EU as putting policy decisions beyond them. Politics was placed out of their reach, becoming something that was done to them with no freedom to object. Now Brexit puts voters firmly back in the picture. The Brexit battles were the contemporary spark that allowed people to reflect on their own place in the decision-making process, and a reminder of why sovereignty has been such a catalyst for democratic progress over centuries.

A historical detour

Sovereignty is not democratic per se - myriad authorities have held sovereignty, including kings, dictators, juntas, theocracies, nation states and the people (usually via parliament or constitutions). For centuries, who holds supreme authority within a

specific territory has been the basis of wars, dethronings, regicides, coups and revolutions. History is made up of continual disputes over what or who the holder of sovereignty derives their authority from. When republics and democracies replaced absolute monarchs, the state and its government were said to be sovereign, and these forms were successively forced to cede more power to the people.

It was in the late-sixteenth century, in reaction to the chaos of internal national wars (most notably the French Wars of Religion and the English Civil War) that sovereignty emerged as a concept to justify monarchs gaining the authority to centralise power at the expense of the feudal nobility. The early theorists associated with developing the idea were Jean Bodin in France and the English philosopher Thomas Hobbes. Both presented variations on the theme of sovereignty as residing in a single individual or body of people that would have the ultimate authority to declare the law. Philosophy developed when John Locke and Jean-Jacques Rousseau, reacting against these models (whether absolute monarchy or the Leviathan), viewed the people within a state as sovereign - ruling through their general will. In different ways, their theories popularised the idea that the state should be based upon a social contract between citizens, through which they entrusted powers to a government for protection.

These ideas led to modern democracies, forged through struggles over who held sovereignty - but not without a fight. The revolutionary notion of parliamentary sovereignty led to bloodshed and mayhem for many years before being (somewhat) resolved. The English Civil War between parliamentarian Roundheads and royalist Cavaliers ultimately culminated in the 1688 invasion of England by William of Orange, who ruled under severe limits on royal power. The conclusion: only a parliament with the consent of its electors could govern and determine the politics of that nation.ⁱⁱⁱ

Every historic societal progression has illustrated that the ideals of sovereignty can transform political life. During the famous Putney debates in 1647, members of the New Model Army and radicals such as the Levellers spent 15 days thrashing out recommendations for parliament's constitution, airing arguments for one man, one vote and suffrage for all men, including the poorest. The power of that kite-flying notion, that all voters would be equal (even if not fully realised at that time) inspired everyone from the Chartists through to the Suffragettes, culminating eventually in universal suffrage.

In almost all examples of sovereignty, one key feature is that it is defined territorially - within borders. And yet national sovereignty is loathed by today's globalism

advocates, who neglect the progressive roots and possibilities of the nation state. In today's world, politicians, international relations theorists and global NGOs can only see these borders and their heritage as responsible for ugly nationalism and xenophobia. One described the UK's departure from the EU as a 'deeply reactionary Brexit [that] has created a fantasy of kings in castles with absolute power, addicted to the notion of territory, nation and ownership'.^{iv} Putting aside the reality of transnational institutions deploying territorial protectionist measures such as bans on vaccine exports or the EU's Fortress Europe approach to non-EU migration, history tells a richer story.

Today's theorists of postcolonialism might note that movements for self-determination against imperialist empires did so under the banner of fighting for their own national sovereignty.

The Peace of Westphalia in 1648 may be long forgotten. However, its development of a system of sovereign states in Europe brought an end to a long era of warring interventions, often fought in the name of religion, and curbed the excessive powers of the Holy Roman Empire and Papal power. This opened up future democratic possibilities and important ideals

to take inspiration from: elected national parliaments accountable to citizens in a specific territory; self-rule free from external oppression; barriers to illegitimate interference and aggressive military invasion in internal affairs of other territories.^v Today's theorists of postcolonialism might note that movements for self-determination against imperialist empires did so under the banner of fighting for their own national sovereignty.

What next for sovereignty?

Such historical gains of sovereignty are often dismissed as backward-looking nostalgia. But such prejudices are revelatory, as we can see in plain sight the relationship between the contemporary elite's oh-so-modern disillusion with sovereignty and a deep-seated hostility to treating all citizens as equals. Through the vociferous attacks on Brexit voters as ill-informed, easily duped, poorly educated 'gammons', we now know there are many in positions of authority who are contemptuous of the capacity of domestic voters to make decisions freely. Membership of the EU itself had been a means to marginalise the influence of popular opinion on the work of policymakers. Regrettably, leaving the EU has not dented this preference for privileging unelected

bodies, now homegrown, such as experts with specialised knowledge or the judiciary, over and above the capability of citizens to weigh up important questions about the direction of society. To resist these trends, a new battleground has opened up: individual sovereignty.

Taking back control - for the individual

Today's challenge is to ensure that voters are taken seriously as equals, that their moral autonomy and intellectual capacity are held as sovereign. In fighting to govern our own thoughts and beliefs, we face novel foes and new sources of authority. Inauspicious trends in the so-called culture wars threaten to undermine self-governance. Unconscious-bias training and hate-speech laws, to name but two examples, give authority to third parties to interpret one's words and actions, divorced from intention.

Notably, we have seen vivid assaults on individual sovereignty during the pandemic. Health Secretary Matt Hancock recently instructed healthy citizens to 'act like you have the virus'. But when we are ill we are unable to fully function - we become enfeebled and helpless. What does it tell us about the state's view of individual autonomy if it holds up the vulnerable and

dependent patient as a role model for good behaviour?

It is also telling that the government has enthusiastically embraced the use of psychological methods to model behaviour. From the start of the pandemic, politicians turned to a Cabinet Office spinoff, the Behavioural Insight Team (otherwise known as the ‘Nudge Unit’), to promote compliance with Covid-19 restrictions. On 6 January 2021, 47 signatories wrote to the British Psychological Society, the professional body overseeing the work of psychologists in the UK, expressing ethical reservations about ‘covert psychological strategies - that operate below the level of people’s awareness - to “nudge” citizens to conform to a contentious and unprecedented public health policy’.

When people cease to be free to make choices, moral independence becomes compromised.

It’s easy to sound conspiratorial, but contemporary reliance on ‘nudge’ tactics is evidence of a longer-term official disillusion with individuals’ capacity to make reasoned, sovereign decisions. The doctrine of ‘libertarian paternalism’ that promotes the use of behaviour-management techniques to ensure that the public make the correct choices, while avoiding the

difficult task of persuading them, originates in the work of American academics Richard Thaler and Cass Sunstein. It was adopted under David Cameron in 2010 as ‘the world’s first government institution dedicated to the application of behavioural science to policy’.

Long before Covid-19 or Brexit, policy advisers frequently complained that citizens refused to take the advice of experts. This was especially true in public-health initiatives such as the self-styled wars on obesity, smoking, alcohol consumption and sugar intake. The failure of the public to follow ‘scientific’ best practice led to the conclusion that people were just too irrational to be influenced by reasoned argument. Instead, advocates of nudge opted for ‘low-cost, low-pain ways of “nudging” citizens... into new ways of acting’.^{vi} The then deputy prime minister, Nick Clegg, boasted that his government’s Nudge Unit believed it could ‘change the way citizens think’ - without the bother of persuasion.

Advocates of nudge describe themselves as ‘choice architects’ whose policies merely help people make the right choices. But as one of their own key papers acknowledges, psychological manipulation to change behaviour ‘has implications for consent and freedom of choice’ and offers people ‘little opportunity to opt

out'.^{vii} This has serious implications for personal freedom and individual sovereignty.

When people cease to be free to make choices, whether due to behind-the-scenes psychological manipulation or the spiralling numbers of lockdown regulations that dictate every social interaction, moral independence becomes compromised. It is far too easy to be infantilised and dependent, the very opposite of taking back control or self-determining sovereignty. In 'What is Enlightenment?', Immanuel Kant warned of how tempting it can be to allow our autonomy to be undermined when choices are removed:

'It is so easy to be immature. If I have a book to serve as my understanding, a pastor to serve as my conscience, a physician to determine my diet for me, and so on, I need not exert myself at all. I need not think, if only I can pay: others will readily undertake the irksome work for me.'^{viii}

Lockdown policies have chipped away at adults' confidence. We have been deprived of an important habit: calculating risks and making independent decisions about how to live. We need to ensure that we don't get rusty when it comes to taking responsibility for our choices. Even in a pandemic, where physical restrictions might be necessary, we must not succumb to handing over our conscious

capacity to make judgments to behavioural scientists, virologists and forecasters.

In Stockport a year ago, many acknowledged that the hopes about realising Brexit's promise of sovereignty were never dependent on politicians handing down gains. Brexit was a wake-up call that created a DIY attitude to democracy that now - a year on - needs to be rekindled. Reminding ourselves of why sovereignty had such a strong appeal for Leave voters (and still repels so many elites) helps to clarify important questions. Where does power lie? Who, or what, is sovereign and by what kind of consent? Post pandemic, for the sovereign gains of Brexit to be realised, we need an energetic cultivation of our own exercise of judgement, personal responsibility and freedom. The fight for Brexit ensured that the electorate's will was realised; achieving that, against the odds, proved that people derive their own sovereignty from their status as the subjects of history, not the objects of it. It's a start - now let's make some history.

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In May 2019, she was elected as an MEP for the North West England constituency of the UK in the European Parliament elections. In September 2020, Claire became a member of the House of Lords as Baroness Fox of Buckley. Claire is frequently invited to comment on TV and radio and is author of *I STILL Find That Offensive!* and *No Strings Attached! Why arts funding should say no to instrumentalism*.

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