

Democracy in the European Union – getting it right

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ACADEMIC



POLITICAL



SOCIAL

SUMMARY

Professor Gavin Barrett's research has focused on democracy in the European Union, looking in particular at the role of parliaments, the operation of referendums, and the sensitive field of justice and home affairs.

Drawing on this research, Professor Barrett played a key role in securing change to Irish statute law on voting rights for EU citizens. Given that over 100,000 non-Irish nationals live in Ireland, it is reasonable to say that tens of thousands of them may have benefitted from this change in law.

His research also helped chart the course for the second (successful) referendum on the Lisbon Treaty, an agreement which has forged the current legal basis of Ireland's relationship with the EU, and a document which has affected the lives of millions of people.

Professor Barrett has influenced a range of policies in the UK and Ireland. His research informed the Government's approach to the Lisbon Treaty, and it helped bring about a change in law that improves EU citizens' voting rights in Ireland.

RESEARCH DESCRIPTION

Professor Barrett has undertaken extensive research into democracy in the European Union, particularly the role of parliaments (since 2008), the operation of referendums (since 2009), and cooperation on justice and home affairs (since 1997).

Through his research, Professor Barrett identified inadequacies in democratic control regarding EU matters. This includes the inadequate (though still evolving) involvement of national parliaments in European affairs, which Professor Barrett analysed extensively, among other things, in an edited volume, an Oireachtas-published report, and a book published by Manchester University Press, as well as in numerous articles and book chapters.

In the course of this research, he found that, in Ireland, the procedure for registering to vote in European Parliament elections varied depending on the voter's nationality, a state of affairs which constituted illegal discrimination.

In analysing Irish referendums, especially as they relate to the EU, Professor Barrett identified various implications of the Lisbon referendums. His research on referendums led to publications in international peer-reviewed journals. He also co-authored (with then-colleagues in UCD Professors Brigid Laffan, Ben Tonra, Dan Thomas and Rodney Thom) a report that laid the foundations of Oireachtas policy concerning the Lisbon Treaty.



Leinster House, the seat of the two Houses of the Oireachtas.

When conducting this research, Professor Barrett collaborated with various international research networks, including the *PADEMIA* network, the *Member States' Constitutions* and *EU Integration* group, and the *Choice For Europe Since Maastricht* group, as well as with colleagues in UCD.

Funding sources included the Erasmus+ scheme (under which Professor Barrett was awarded a Jean Monnet professorship), the Oireachtas Parliamentary Fellowship, a Government of Ireland Fellowship, the Department of Foreign Affairs Communicating Europe fund, the Law School Research Fund, the UCD Seed Funding scheme, and the (former) Irish Research Council for the Humanities and Social Sciences.

RESEARCH IMPACT

The nature and extent of the impact of this work has been considerable. Four examples are given below.

Improving EU citizens' voting rights

In part because of Professor Barrett's research, Irish law on EU citizens' right to vote in European parliament elections was altered, changing the procedure from being expensive and awkward, to being simple and accessible.

Professor Barrett discovered that Irish voter registration procedures varied in cost and convenience depending on voter nationality. Arguing that this was illegal discrimination, he complained to the European Parliament Petitions Committee. The Petitions Committee then consulted the European Commission Legal Service, which supported Professor Barrett's argument.

As a result of this, and other complaints, the Government undertook to change the law, which they did in section 16 of the Electoral (Amendment) Act. Since there are over 100,000 non-Irish nationals in Ireland, it can be safely assumed that tens of thousands of voters have potentially benefited.

Informing the Government's approach to the Lisbon Treaty

The Oireachtas determined its position on the Lisbon Treaty referendum on foot of research co-written by Professor Barrett. The Joint Oireachtas Sub-Committee on Ireland's Future in the EU commissioned Professor Barrett to co-write a report - *Ireland's Future in Europe: Scenarios and Implications* - the only report then cited by the Oireachtas Sub-Committee in its own report.

This formed the basis of the Government's approach to a Treaty establishing the legal basis of Ireland's relationship with the EU, which affects us all in a variety of ways. Indeed, since the Lisbon Treaty could only enter into force if ratified by all member states, the impact stretched to the entire population of the EU - half a billion people.

Influencing UK policy

Professor Barrett has addressed the House of Lords EU Select Committee by invitation three times and submitted written evidence by invitation once. Each time, the subsequent Committee reports (which determining its policy) referred to his evidence.

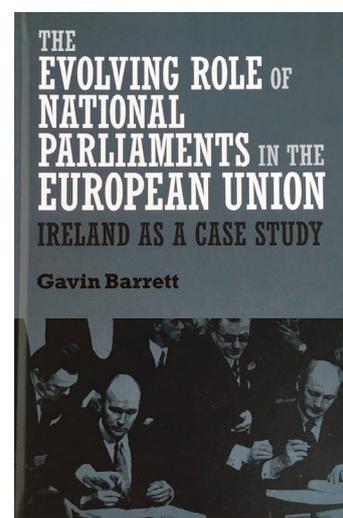
On one occasion, the UK Government opted to re-join several EU justice and home affairs initiatives having earlier opted out of them. And the UK Government altered its proposed policy having considered a House of Lords report based on evidence given by Professor Barrett and other expert witnesses. This had consequences of vital importance to the administration of criminal justice in the United Kingdom

The invitations extended to Professor Barrett were based on his extensive research on justice and home affairs issues, and on his expertise in Brexit-related issues (around which he has a long track record of dissemination in the broadcast and written media).

Influencing Irish policy

Professor Barrett has given evidence by invitation to Joint Oireachtas Committees sixteen times. As a result, Committee reports and statements, indicating Oireachtas policy on various issues, have expressly cited the influence of Professor Barrett's research.

The frequency of these invitations - and similar invitations to parliamentary bodies elsewhere in Europe - provides strong evidence of the value attached to his work. This frequency, combined with the fact that the Oireachtas legislates for the entire population of the country, suggests the reach of Professor Barrett's impact is significant.



Left: Professor Barrett addressing the Oireachtas Joint Committee on EU Affairs.

Above: *The Evolving Role of National Parliaments in the European Union* - by Professor Gavin Barrett.



REFERENCES

The references below represent a sample only. A full list of Professor Barrett's publications can be seen on his UCD Researcher Profile: <https://people.ucd.ie/gavin.barrett/publications>

Books and monographs

The Evolving Role of National Parliaments in the European Union: Ireland as a Case Study (Manchester University Press, 2018)

The Oireachtas and the European Union: the Evolving Role of a National Parliament in European Affairs (Houses of the Oireachtas, Dublin, 2013)

Books edited

National Parliaments and the European Union: The Constitutional Challenge for the Oireachtas and Other Member State Legislatures (Clarus Press, Dublin, 2008)

Towards a European Civil Code (Bundesanzeiger Verlag, Cologne, February, 2002)

Creating a European Judicial Space (Bundesanzeiger Verlag, Cologne, 2001)

Justice Cooperation in the European Union (Institute of European Affairs, 1997)

Newspaper articles

Brexit: why Customs are Central to Solving the Irish Border Impasse The Conversation, 30 January, 2019

Varadkar's Border Gamble May Not Prove the Wisest Bet Sunday Independent, 27 January, 2019

Tackling Brexit in the Irish courts is a Long Shot. But Sometimes Long Shots Work The Guardian, 26 January 2017

Britain has voted for Brexit - what happens now? Irish Times, 24 June, 2016

What the UK Can Learn From Ireland's Referendums Newsweek, 18 May, 2016

Academic articles

Europe's 'Other' Open-Border Zone: the Common Travel Area under the Shadow of Brexit (2018) 20 Cambridge Yearbook of European Legal Studies 252 (co-author)

The Eurozone: Meeting the Challenge of Representative Democracy? (2018) 40 Journal of European Integration 249

The Use of Referendums in Ireland: An Analysis (2017) 23 Journal of Legislative Studies 1

The Evolving Door to Europe: Reflections on an Eventful Forty Years for Article 29.4 of the Irish Constitution (2012) 48 Irish Jurist 132

Building a Swiss Chalet in an Irish Legal Landscape? Referendums on European Union Treaties in Ireland and the Impact of Supreme Court Jurisprudence (2009) 5 European Constitutional Law Review 32

Creation's Final Laws: The Impact of the Treaty of Lisbon on the 'Final Provisions' of Earlier Treaties (2008) 27 Yearbook of European Law 3

'The King is Dead, Long Live the King': The Recasting by the Reform Treaty of the Provisions of the Constitutional Treaty Concerning National Parliaments (2008) 33 European Law Review 66

Research papers

Brexit: What Happens Next? (May 2016) Institute of International and European Affairs

The Irish Parliament and EU Affairs (April 2013) OPAL Online Paper Series

Democratic Control in Ireland of the European Council and Eurozone Summits (September 2012) Submitted to European Parliament (as part of commissioned research with Trans-European Policy Studies Association and Notre Europe)

Ireland's Future in Europe: Scenarios and Implications (November 2008) (co-author) Commissioned by Joint Oireachtas Sub-Committee on Ireland's Future in the EU

The Treaty Framework for Enlargement - the Treaty of Amsterdam and the Treaty of Nice (December 2001) Commissioned by the National Forum on Europe

Invited addresses

Some Comments on the Task Force Report on Subsidiarity, Proportionality and Doing Less More Efficiently. Joint Oireachtas Committee on EU Affairs, 3 October 2018

The United Kingdom Opt-Out under Protocol 36 Agreed at Lisbon - the Implications for Ireland. House of Lords Select Committee on EU Affairs, 13 February 2013

The Impact of Brexit in the Field of Foreign Affairs, Trade and Defence. Joint Oireachtas Committee on Foreign Affairs and Trade, and Defence, 11 May 2017

The United Kingdom and Ireland's Protocol 21 Opt-In and International Agreements. House of Lords Select Committee on EU Affairs, 29 October 2014

Restructuring of Oireachtas Scrutiny Methods in Relation to European Matters. Joint Oireachtas Sub-Committee on the Review of the Role of the Oireachtas in European Affairs, 5 May 2010

The Supreme Court, the Oireachtas and the Treaty of Lisbon. Joint Oireachtas Committee on the Constitution, 18 November 2008

Ireland's Future in Europe: Scenarios and Implications. Joint Oireachtas Sub-Committee on Ireland's Future in the EU, 13 November 2008