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Enemies of the People

A Multimodal Critical Analysis of Populism, the Popular Press and the Judiciary in Post-Brexit Britain

Abstract

The article provides an in-depth critical analysis of an article published by the UK mid-market press newspaper the Daily Mail criticizing the role of High Court judges for ruling that Parliamentary approval was necessary to trigger Article 50 of the Treaty on European Union (TEU) and formally leave the EU. It argues that the article and the newspaper itself can be considered populist through the discourse strategies that they adopt to represent the pro-Brexit voters and public positively and negatively the three judges involved in the High Court decision. The investigation is based on a fine-tuned multimodal analysis of the newspaper report and demonstrates that textual means are combined with visual means to denigrate the three judges responsible for the decision but further expanded to the entire judiciary and pro-Remain supporters and to legitimize the voice of the “people” of the Daily Mail or those 17.4 million Britons who voted to leave the UK in the referendum of June 2016.

Keywords: *populism, Critical Discourse Analysis (CDA), Multimodality, popular press, Brexit*

On 4 November 2016 the UK newspaper the *Daily Mail* published an article entitled “Enemies of the people” on the front page with a picture of the three High Court judges who had ruled that consent of Parliament was required in order to give official notice of the UK’s intention to formally leave the EU (Slack 2016). The intention of the newspaper was apparently aimed at demonstrating that these “unelected” representatives of the judiciary were purposely standing in the way of a decision made by a majority of the people in the Brexit referendum of June 2016.

The present work is interested in revealing the linguistic and non-linguistic means adopted by the *Daily Mail* in constructing a negative representation of the judges—and, ultimately, the

judiciary—based on underlying cognitive frames in the minds of both text producer and text receiver (Chilton 2004). It is precisely these frames that the authors of the newspaper article employed to activate generally negative sentiment about judges, the judiciary and anyone who is against the decision to leave the EU. Importantly, the work examines the use of populist argumentation schemes in the construction and recontextualization of judges, the judiciary and those who appear to be standing in the way of Brexit. As will be discussed, the article can be read through the lens of a populist communication style (Jagers and Walgrave 2007). Therefore, the discussion will highlight some of the typical features of populist rhetoric. In this way, we provide an analytical approach aimed at uncovering the cross-fertilization of (popular) media and populist discourse practices, which are achieved through the combination of various semiotic modes in the printed and online edition of a popular press newspaper.

Theoretically, the work is grounded in Critical Discourse Analysis [CDA] and Multimodal Critical Discourse Analysis [MCDA] (Machin and Mayr 2012), an approach which allows us to investigate critically not only linguistic aspects of texts but also other semiotic modes, such as images and text layout. In addition to MCDA, the research also draws on Social Semiotics (Kress and Van Leeuwen 2006) and, for the definitions of populism and populist discourse, on Political Science (Müller 2017). Since the focus of criticism in the article is towards judges, this paper also discusses the role(s) occupied by judges in the UK and aims to determine the roots of such negative stereotypes in the popular press and among the general public. Ultimately, the work intends to demonstrate the various ways that judges and the judiciary are first (mis)represented by the *Daily Mail*, based on underlying models of in- and out-group representations, the people *vs* the elite, etc., and how these representations serve the underlying populist aims in the article. In section 1, we will briefly introduce the main theoretical constructs addressed by the work, as well as some definitions of populism and populist movements. Section 2 addresses the popular press and its role in propagating populist discourses about judges and the judiciary in UK society. Furthermore, this section provides an overview of judges and their careers, exploring the defining characteristics of judges from many different positions in order to better understand the roots of anti-judge rhetoric. In Section 3, the article is subjected to fine-grained analysis focusing on the various linguistic and visual aspects that characterize it. Finally, in Section 4, the main hypotheses are reconsidered in light of the analyses conducted.

1. Theoretical background

1.1 CDA and MCDA

The analysis is inspired by Critical Discourse Analysis [CDA] and, specifically by its interest in “the semiotic dimensions of power” (Fairclough, Mulderrig and Wodak 2011), focusing on how these dimensions interact with text, genre, discourse and context. In CDA, interaction is considered to have a dialectic nature, so that discourse practices influence society in the same way that society and its various levels of context influence discourse practices. And, traditionally, the more powerful a discourse, the more influential it is considered to be. CDA, thus, is interested in the ways that language is used (and abused) by the most powerful social actors and institutions to influence and often manipulate the public (Van Dijk 2006). Not surprisingly, the media have often been an object of investigation in CDA due to their power in influencing public opinion and reinforcing beliefs from a generally corporate point of view. As noted by Richardson,

Through its power to shape issue agendas and public discourse, it [the news] can reinforce beliefs; it can shape people’s opinions not only of the world but also of their place and role in the world; or, if not shape your opinions on a particular matter, it can at the very least influence what you have opinions on; in sum, it can help shape social reality by shaping our views of social reality. (2007, 13)

According to many scholars in the field, CDA should concentrate “on the abuse of power a large media organization may have by manipulating the attitudes of readers” (Van Dijk 2018, 27). The views expressed by both Van Dijk and Richardson reflect a conception of the media as having enormous power over the public, encouraging a unidirectional flow of dominant discourses on an easily influenced reading public. However, in today’s new media environments in which users can engage with the original media platform media in various ways, we must also accept the fact that “the traditional direct, top-down, and one-to-many model of traditional media text flow is being upended by an apparently interactive and participatory model fostering many-to-many participation schemes” (Boyd 2019, 292). Thus, we must also accept that such engagement is further strengthened by newspaper web platforms in which users can easily switch through different media, click on hyperlinks, share photos and text, and write comments about the news item in question.

Multimodal Critical Discourse Analysis (MCDA) extends the scope of research from textual fragments to other semiotic modes, such as image and sound and naturally complements the recent changes in media flow online. Since both CDA and MCDA are interested in discourse as a means of social construction, it follows that the language and visual communication adopted

can both shape and be shaped by society at large. In such a way, MCDA considers “how images, photographs, diagrams and graphics also work to create meaning, in each case describing the choices made by the author” (Machin and Mayr 2012, 9). In the analysis of any new media text, we cannot ignore these multimodal features, such as images, as they often have ideological relevance. Consequently, MCDA is interested in both the semiotic choices themselves as well as “the way that they play a part in the communication of power relations” (Machin and Mayr 2012, 10).

Finally, since the text under analysis deals with the UK legal system¹ and its most senior (and powerful) representatives (i.e. judges), we also need to consider briefly the implications of legal discourse and other symbolic and (stereotypical) characteristics of judges. The fact that legal discourse has become the purview of Critical Discourse Analysts should come as no surprise. The important and powerful position of the judiciary in Western societies is correlated to the fact that through their interpretations of legislative acts, judges can influence the law. The traditional approach to legal discourse in CDA is summed up by Rajah (2018, 480): “[t]hrough CDS, legal discourse is situated with specific social contexts, and heightened attention is paid to those questions foundational to critical studies, ‘democracy, equality, fairness and justice.’” In Common Law jurisdictions the role played by judges is even more important, namely, “the law formulated by judges ruling in cases, is the source of law that differentiates this legal system from other systems” (Servidio-Delabre 2014, 87). According to Edelman (1977, 17) the language employed by Anglo-American legal professionals should help to create a “reassuring message regardless of its content.” Nevertheless, legal language is well known for its differences from standard English, which often creates problems among the lay speakers even for basic concepts (Boyd 2013; 2016; Tiersma 1999; 2015). Such difficulties of understanding may also make the lay public feel more distant from the legal professionals and, therefore, uncomfortable. This awkwardness may be further exacerbated by factors, such as courtroom formality, anachronistic ways of dress (of the judges and barristers), and the courtroom set-up. It will be argued in what follows that such contextual and situational aspects combine in the definition of judges and judiciary, reinforcing their privileged and powerful position as part of an elite group. Such power and distance are highlighted by media descriptions, such as that found in the *Daily Mail* article.

¹ For the sake of brevity in the present discussion we will ignore the significant distinctions between the English (and Welsh) legal system and the UK system. In any case, the issues addressed in the article under analysis have to do with national UK constitutional law.

1.2 Populism

In the past few years, much has been said about populism and its leaders, and many movements throughout the world have been labelled as populist. However, there are various definitions of populism that differ among scholars, the media and the general public. In what follows, we briefly introduce some of the definitions so that we can arrive at a working definition for the analytical discussion.

First of all, Müller (2017) stresses that all definitions of populism share a common thread, i.e. the opposition between the people and the elite. More specifically, according to his view populism includes the people, the elite, and the general will. We shall see below that while the people play a significant role in populist discourses—i.e. in the ways that populists portray them—they are very much a populist construction, as they do not and cannot refer to an existing group. They are constructed according to three different groups (or in various combinations among the three groups), which are “the people as sovereign, the common people, and peoples as nations” (Mudde and Kaltwasser 2013, 587). Furthermore, populists tend to combine criticism of the establishment with an “adulation of the common people” (Mudde and Kaltwasser 2013, 584). The establishment, however, is not only a political entity but also one in the economy, culture or the media, and these are portrayed and vilified collectively as a “homogeneous corrupt group that works against the ‘general will’ of the people” (Mudde and Kaltwasser 2013, 589). Furthermore, populist leaders or movements generally make that claim that they are the only true voice of and for the people (Müller 2017).

A useful analytical framework for the investigation of populist discourse comes from Jagers and Walgrave (2007), who adopt the view that populism should be understood as a communication style rather than an ideological construct. Thus, they define populism as “a communication frame that appeals to and identifies with the people and pretends to speak in their name” (Jagers and Walgrave 2007, 322). Also important in their analysis is the distinction between ‘thin’ and ‘thick’ populism. While the authors label populism as ‘thin’ when it is “merely making reference to the people,” ‘thick’ populism implies “that populism refers to the people, vents anti-establishment ideas *and* simultaneously excludes certain population categories” (Jagers and Walgrave 2007, 322, italics in the original). Furthermore, the authors specifically mention ‘anti-elite populists,’ who are portrayed as supporting the people in criticizing the elite “who live in ivory towers and only pursue their own interests” (Jagers and Walgrave 2007, 324). While such a distinction is important to understand the different manifestations of populism, we should ask what is meant by ‘communication style.’ Recent discourse analysis-based studies, in fact, can

help to shed some light on how populist discourse is constructed. Thus, drawing on early work by Laclau (1977), De Cleen proposes a multi-dimensional discursive approach to populism

[that] revolves around the claim to represent ‘the people,’ discursively constructed through an antagonistic pitting of ‘the people’ against ‘the elite’ along a down/up axis, with ‘the people’ as a large powerless group and ‘the elite’ as a small and illegitimately powerful group that frustrates the elite’s legitimate demands. (2019, 20)

In their introduction to a recent volume on populist discourse in Europe, Zienkowski and Breeze (2019, 1) highlight the need for discourse analysts to avoid “conceptual and linguistic confusion” by prioritizing “an analytical view of what [...] parties are actually claiming.” Similar to Bennett, we also conceptualize populism as a discursive strategy, or “a repertoire of performative and linguistic strategies used to mobilize a population” (Bennett 2019, 230). This repertoire, we would add, should include both linguistic and non-linguistic features that should be taken into consideration in any discourse-based investigation of populist discourse. From a linguistic point of view, Bennet (2019, 231) notes that populist discourse can be distinguished by “particular manifestations of simplicity, directness, use of colloquial language, and fallacious appeals to common sense (*argumentum ad populum*).” Yet, we also need to consider the symbolic—and hence non-linguistic—dimension to power structures implicit in many populist discourses. As noted by Wodak (2015, 25) political actors must create a “collective representation” that resonates with the public who, in turn, “have to draw on and mobilize a common cultural structure, via appeals to common knowledge of epistemic communities.” Finally, Wodak (2015, 25), who is specifically focused on right-wing populism, also stresses the prevalence of collective stereotypes adopted in populist rhetoric, which can lead to the creation of an enemy through scapegoating. Furthermore, in such populist discourse “racism, antisemitism, xenophobia, homophobia, and sexism reinforce each other and converge into one exclusionary nativist belief system” (Wodak 2015, 99). Müller (2017, 4), furthermore, notes that actors who are construed as enemies in populist discourse often become “enemies of the people” whom they attempt to exclude completely. In the article under discussion that enemy is epitomized by the three judges who ruled that the Government required the consent of Parliament to give notice of Brexit. These are the “enemies of the people” in the headline printed below the pictures of the three judges. The depiction of judges, i.e. member of a ‘non-elected’ (as specified in the article) elite, could be seen as what Wodak (2015) defines as an ‘interchangeable commodity’: in this case, it is the judges who become the enemy and are portrayed as purposely ruling against the people’s will (and, importantly, ruling in favour of the EU). In this way,

newspapers, as well as politicians, can adopt populist discourses, thereby becoming a voice of populism, a view that will be further developed in 2.2.

2. Populism, the popular press and the judiciary

2.1 *The popular press and populism*

In the previous section, we attempted to delineate some general characteristics of populism and populists. We tacitly accepted that newspapers can become carriers of populist discourses. Such opinions are, in fact, widespread in the popular press and, in turn, tied to the attitudes of (similarly-minded) politicians and to political processes, as expressed in tabloids which have long been viewed as expressing populist tendencies (Conboy 2006; Bingham and Conboy 2015). Populist appeals and discourse are common in tabloids because rather than “maintaining a more generalized attack on the personalities of the politicians and their motives” they prefer to highlight in so far as possible “corruption and self-serving motivation” (Conboy 2006, 152). The present article demonstrates that it is not just politicians who are attacked, but the judges who subsequently become an ‘interchangeable commodity’ of populism and can be construed as representing an elite and are going against the people’s will.

As part of their “brash, conservative” (Bingham and Conboy 2015, 89) agenda, tabloids and mid-market newspapers in the British press such as the *Daily Mail* have a long history of expressing Eurosceptic sentiment (Daddow 2012). The tabloids and the *Daily Mail*, in particular, have long adopted an anti-EU stance as a way “to exaggerate for effect” (Daddow 2012, 1221). If we consider only the *Daily Mail*, the newspaper is recognized for its right-wing stance and “its opposition to any ‘Left’ politics” (Stoegner and Wodak 2016, 194). More pointedly, Richardson (2004, 148) calls it “the mid-market, middle class, right-wing” newspaper, while in terms of public assessment, a more recent survey of public perception of UK newspapers determined that it was rated the UK’s “most right-wing newspaper” (Smith 2015). More recently Euroscepticism was transformed into open support for the Leave campaign in the Brexit referendum (Breeze 2018; Goodwin and Milazzo 2015). The populist pro-Brexit style of the newspaper is evident in an editorial published on 3 February 2016, some five months before the referendum, entitled “Who WILL speak for England?”² The headline, in fact, adopts graphological means to emphasize the future modal *will* through all capital letters in the headline and red color. This allows the editors to focus on the word *will*, thereby giving a different meaning and metaphorically standing for the *will* of the people. According to Henderson et al. (2016, 187),

²<https://www.dailymail.co.uk/debate/article-3430870/DAILY-MAIL-COMMENT-speak-England.html> All websites were last visited on 18/05/2020.

who see the *Daily Mail* as “Britain’s most influential newspaper,” the question in the headline is also highly rhetorical as the editorial board and, hence, the newspaper itself “has no doubt that it provides the authentic voice of ‘middle England’ in the debate about Brexit. In fact, as noted by Breeze (2018, 60) the *Daily Mail*, although not unique among newspapers with its anti-EU and pro-Brexit rhetoric, “played a particularly outspoken campaign role during the EU referendum.” The populist views expressed by the newspaper, moreover, are not limited to Euroscepticism, as we can also find examples of xenophobia, antisemitism, homophobia, etc. (Breeze 2018; Stoegner and Wodak 2016). As we have seen above, right-wing populist discourse often specifically targets not only ‘elite’ groups but also social groups such as foreigners, Jews, and homosexuals as scapegoats.

We should now briefly consider what the aim of such reporting might be from the point of view of the readership of tabloids. If we accept the premise that a populist frame is being adopted, then, in this case, the populist voice of the newspaper and its editorial staff represent the true voice and *will* of the people, more specifically of the 17.4 million Brexit voters for Leave, and, more importantly, that part of the people for whom the *Daily Mail* is acting as a mouthpiece against the “out of touch” and “unelected” elitist judges. The widespread use of antagonistic “discourses driven by populist and nationalistic ideologies” has been documented in the literature (Zappettini and Krzyzanowski 2019, 385). This type of thinking about Brexit, the EU, and the judiciary is activated by and controls stored mental models containing negative opinions about these issues (as well as others about migration, non-traditional lifestyles, the left, etc.) According to Van Dijk (2018) readers then understand more than what is explicitly stated (or shown in images) based on these mental models, and he goes on to compare discourses to icebergs “of which much-implied information is present in the underlying mental models of the participants but not in the ‘surface’ of discourse itself. Such a negative opinion is consistent with conservative attitudes and ideologies” (Van Dijk 2018, 36-7). In the next section, we will take into consideration the ways in which judges and the judiciary are portrayed in the popular press and sentiment in order to try to understand the origins of such negative mental models.

2.2 Judges and the judiciary: fact and fiction

Above we noted that judges in Common Law jurisdictions have an immense amount of power in influencing and reshaping national law. While a full description of the role of judges in these systems is beyond the scope of the present work, a few important features of judges need to be discussed so that we can better understand how these factors might influence people’s mental models.

First, we need to consider the various roles performed by judges and how these roles might influence public opinion. In the trial process, in a role that most people associate judges with, a judge is not only a representative of the Law but also acts as “controller and moderator of the talk produced by all the other participants” (Cotteril 2003, 93). In Common Law, judicial decisions often become binding precedents for the lower courts to follow, which means that judges play a significant and powerful role, as they “can essentially legislate in areas where there is no legislation, and they can give authoritative interpretations to statutes as well” (Tiersma 2010, 177). This leading role also gives the judge “the greatest degree of linguistic freedom” (Cotteril 2003, 93) in addressing those present in court, including witnesses, counsel, the press, the general public and, when appropriate, the jury. As already noted, a judge’s power is also reflected in linguistic usage: much of the language used is in the form of directives and imperatives and “[t]he right to use such forms is symbolic of the judge’s power and influence in court, and specifically of his ability to direct the talk, either by preventing a lawyer from pursuing a particular line of questioning (or a witness a particular response) or, conversely, by encouraging or even requiring it” (Cotteril 2003, 101).

There are a number of other features that might make judges appear more distant from both the lay public and other legal professionals, including their position in the courtroom, which is often more elevated than the rest of the room and “physically above the fray and separated by an empty space” (Tiersma 1999, 194), their formal and dated attire which often includes a wig and their generally formal behaviour. In theory, the physical and linguistic distancing of judges should create a sense of objectivity about the laws that judges embody. However, such situational and behavioural factors can easily make lay people feel uncomfortable as well as increase their sense of disenfranchisement with the very institutions that should be protecting them. And it is precisely these elements, which are construed belonging to someone superior, that the popular press exploits in its portrayal of judges.

Within the English system, the role of judges has changed significantly over the last 50-60 years. While the modern judiciary has been described as “remarkably competent” compared to the 1950s and, in contrast to the *Daily Mail*’s vilification, as “in touch” (Stevens 2005, 38). Yet, it was only in 2005 that the newly founded Judicial Appointments Commission finalized the prerequisites for judicial selection “on merit, through fair and open competition.”³ Furthermore, a survey conducted in 2016 about diversity in the judiciary concluded that only 22.3% of all

³ <https://www.judicialappointments.gov.uk/what-jac-does>.

judges at least in England and Wales were women, and 5.1% non-white minorities.⁴ Moreover, we cannot ignore the fact that judges in England and the UK have become more political since the 1970s and “in the last twenty-five years there has been a noticeable tendency for the courts to be used to push moral and social policies forward. The clear line between the legislative and the judicial in these areas may be breaking down” (Stevens 2005, 73). While such factors may indeed help us to understand the diffusion of negative and populist representations of judges, as we shall see in the next section, most of these assumptions are based on fallacious arguments.

3. Enemies of the people: (con)textual analysis

We will now look at the article in more detail, examining both the linguistic and non-linguistic features adopted so that we can uncover the main strategies exploited by the *Daily Mail*. First, however, we may consider the methodological soundness of studying just one text. Similar to Fairclough (1989, 54), we assume that a text can be understood only if we take into account the cumulative effect of the media “[...] working through the repetition of particular ways of handling causality and agency, particular ways of positioning the reader and so forth.” Limiting our discussion to one exemplary text will allow us to focus more on these ways of positioning, and also from the perspective of different semiotic means so important in today’s online media ecology. Thus, the discussion is not limited to mere textual analysis (3.1) but will also consider a number of significant multimodal aspects of the article, including the images published both in the paper version and online (3.2). Such an approach is aimed at uncovering the various ways that populist discourses may emerge in the genre of news report, especially through the “converged media platforms” (Herring 2013) we are exposed to online.

3.1 Textual analysis

In this section, we will focus on the paper and the online versions of the main news report (Slack 2016), which also contained four separate text boxes providing criticism of the three judges involved in the decision and one entitled *£9 million taxpayer-funded leaflet said our decision was final*, which criticizes the judges’ failure to take into consideration a publicly-funded governmental informational leaflet “that stated the referendum result would be followed directly by ministers.” Before we begin our discussion, however, it would be fruitful to describe which discursive strategies and means we will be interested in. Since the focus is populist discourses, we are mainly interested in understanding the ways through which identities and

⁴<https://www.theguardian.com/news/datablog/2012/mar/28/judges-ethnic-sex-diversity-judiciary#data>.

interpersonal relations among different groups are constructed through various semiotic means (Wodak et al. 2009). On a basic level, we follow Van Dijk's notion of "ideological square" (Van Dijk 2008, 180) according to which "dominant in-group members tend to emphasize *Our* good things and *Their* bad things, and to de-emphasize *Our* bad things and *Their* good things." In order to "serve certain purposes or help to achieve a particular purpose" speakers also employ strategies (Wodak et al. 2009, 32), which in this case are aimed at legitimizing the conservative pro-Leave and pro-Brexit stance while delegitimizing the pro-Remain line as reportedly embodied by the judges and judiciary. Therefore, we focus on the constructive strategies of justification (employed "in the narrative creation of national history") and dismantling or *démontage* (which discredit "parts of an existing national identity construct") (Wodak et al. 2009, 33). We tacitly accept that the points of view expressed in the *Daily Mail* are formed by its own idea of national construct, i.e. it metaphorically and metonymically acts as the voice of the people and their will. While linguistically such differences are realized in various ways, in the present investigation we will further focus on the discursive strategies of nomination, or how social actors (objects, people and events) are referred to, and predication, i.e. which characteristics are attributed to individuals and groups (Wodak, de Cilia, et al. 2009; Stegner and Wodak 2016, 196).

A first reading of the main news article and its various headlines, sub-headlines and bullet points (especially in the online version) reveals a number of different social actors that are expressed explicitly or assumed implicitly. The headline immediately creates a division between the two opposing social actors, the judges *vs* the people—or their will—by labeling the former as "out of touch," enemies of the people who have "declared war on democracy" and "defied" the "will of the people." Thus, the in- and out-groups are immediately apparent. The in-group includes, explicitly, the people and those who exercised their democratic right to vote for Brexit and, implicitly, the newspaper which serves as the mouthpiece for the people. The out-group explicitly includes the judges who are part of the elite group and, implicitly, those who are against Brexit. Delegitimization is further enhanced by the nominalization of *fury* ("we are left to assume that such *fury* belongs to all of those who believe in democracy"), the use of active dynamic verbs *declared* and *defying* making the judges directly responsible, and the use of the epistemic modal *could trigger* insinuating a strong possibility of "constitutional crisis." Furthermore, the *pars pro toto* synecdoche (Wodak et al. 2009) "17.4m Brexit voters" is used to refer to all the people while mentioning only those who voted for Brexit (i.e. the 52% who voted for Leave), thereby further delegitimizing the pro-Remain voters while legitimizing the Leave platform. In this way, the "will of the people" is "discursively retrofitted to the promises of the

referendum campaign, thus gaining legitimacy not only by its moral virtue but also specific path-dependency” (Zappettini and Krzyżanowski 2019, 386). Moreover, the actual ruling is relegated to the first of the three bullet points following the headline; these are immediately followed by more criticism with the passive forms “were branded/accused” and the reported speech “out of touch” and “constitutional crisis” with the war metaphor “of putting Britain on course for.” The curious reader must read further in the text to discover who made these statements, but in the meantime, they have served the newspaper’s purpose of justification of pro-Brexit voters and *démontage* of the judge’s purported antagonistic and undemocratic role.

We will now examine some other linguistic forms used for the creation of these groups. On the one hand, we have an out-group referred to explicitly as “enemies of the people” and embodied by the Lord Chief Justice and two colleagues, but soon expanded to include the judiciary and pro-Remainers; on the other hand, we have an in-group consisting of the newspaper itself (which exploits others’ voices to express its opinion), the 17.2m Leave voters, PM Theresa May and the pro-Leavers in Parliament. As already noted, the judges are immediately delegitimized in the headline and sub-headlines. The article continues to discredit the judges’ ruling, even though it was “perfectly consistent with standard constitutional theory” (Breeze 2018, 60) and later upheld by the UK Supreme Court. The newspaper also used *ad hominem* attacks on the individual judges to further discredit them and their integrity.

As we have seen above, the judges and their ruling are the main targets of the article’s criticism and form part of the out-group in the newspaper’s argument. In the introduction, indirect and direct speech is used as a form of predication, but, strategically, those responsible for the statements are initially excluded and backgrounded to the second part of the text. As noted by Van Leeuwen (2008, 33) discursive representation “can endow social actors with either active or passive roles.” Thus, through a clear strategy of activation, the three judges are portrayed as being “out of touch” but as purposely “frustrating” the will of the people and the government, thereby becoming an active agent in creating opposition. Their agency is further highlighted through the use of the active verbal phrases “putting Britain on course for a full-blown ‘constitutional crisis’” and “throwing into chaos” the Brexit negotiation timetable in their “bombshell verdict.” Their decision is also generally described through the agentless *disappointing* and in direct defiance (*defying*, in another use of active voice) of the British public. Interestingly, the word *verdict* is used with two very different meanings: firstly to express the opinion of the pro-Leave voters in the referendum, and secondly, in the purely legal context, to refer to the High Court’s decision and the forthcoming ruling from the Supreme Court. In the former, it is used positively, while in the latter, negatively, implying that the people’s opinion is

legitimate, but the judicial opinion of the three-judge panel (and the forthcoming Supreme Court one) is not. It would appear that by popularizing a general legal term, the newspaper is further discrediting the legal profession. To further delegitimize the out-group, there is a direct reference to Remainers in Parliament but not to those who voted for Leave in the referendum. These Remainers (in the Parliament) are labelled “embittered” and “gloating” (about the decision), as being involved in a “plot” to see how the ruling could be used to frustrate the efforts in Parliament. Negative other-presentation is further enhanced through the creation of the generalized group ‘unholy alliance’ referring to an apparently illicit collaboration between judges and politicians. This is also an example of what Van Leeuwen (2008) calls ‘association.’ All of these criticisms serve to delegitimize both the judiciary and the Remainers based on fallacious argumentation. Furthermore, a conceptual metaphor associated with war is employed to emphasize a clear strategy to overcome the people’s will expressed in the referendum.

Different discursive means are used in the positive construction of the in-group. First of all, transitivity is used strategically by the *Daily Mail* to omit or background the agents in order to generalize and exaggerate public reaction to the judges’ decision. In fact, only at the very end of the article are the agents named. But before this, there are the positive insiders who had all been “enraged” by the judges’ decision, and whose “condemnation over the unexpected decision” was both “swift and devastating.” This transitivity is further enhanced through a process of passivization (Van Leeuwen 2008). The first positive in-group member to be named is the former Justice Minister, Dominic Raab, who speaks of the judges’ “plain attempt to block Brexit by people who are out of touch with the country and refuse to accept the result.” The fact that this statement was made by a former Justice Minister would appear to further delegitimize those judges responsible for the ruling. His is also the voice behind the ‘unholy alliance’ mentioned above as referring to that between the judges and embittered Leavers, but here the group is expanded to include not only “diehard Remain campaigners,” but also “a fund manager, an unelected judiciary and the House of Lords,” who together “should not be allowed to thwart the wishes of the British public.” *Fund manager* refers to Gina Miller, who brought the case before the High Court and who was “subjected to vitriolic personal attacks” (Breeze 2018, 60) in ensuing news reports in the *Daily Mail*. Other in-group members include Iain Duncan Smith, the former Work and Pensions Secretary, who together with Dominic Raab is said to have spoken of a possible ‘constitutional crisis’; Nigel Farage, who is quoted as fearing “that every attempt will be made to block or delay the triggering of Article 50;” and, finally, the MP Douglas Carswell, who is said to have been a “leading Leave campaigner” and complains of “shocking judicial activism” branding judges “politicians without accountability.” The strategy of delaying

nomination (through passivization and nominalization) until the end of the article allows the statements to be used metonymically to represent the voice of the people and to support the pro-Brexit and anti-judiciary platform.

Delegitimization is further strengthened by *ad hominem* attacks in individual text boxes, including photos of the judges; importantly, these sketches include both legal and personal characterization. The Lord Chief Justice, John Thomas, named as “a founding member of the Euro Law Club,” is accused of “throwing a spanner in the works,” thus actively sabotaging the public’s decision to leave the EU, and “professionally” being “a committed Europhile.” However, the portrayal is not entirely negative as “he has also been critical of European judges,” namely those in the European Court of Human Rights (the membership to which the *Daily Mail* fails to mention will not be affected by Brexit) who were lenient on prisoners’ rights. Yet the overall characterization of the judge is negative as one who “displays short-tempered impatience” and who “banked £1million” in a property exchange. The use of the informal verb form in an active verbal process delegitimizes the act of selling property. The second judge is Sir Terence Etherton, who is described as a “former fencing champion” and is unnecessarily labeled as the “first openly gay judge to be made a Lord Justice of Appeal” to further highlight diversity. Furthermore, he and his partner are reported as having been involved in the protests to “convert a civil partnership into marriage.” Although not pointedly homophobic, later in the same article he is described as “the ‘epitome of a modern judge’” with his “‘enlightened’ ways of updating laws,” which in line with the rest of the views expressed in the article suggest a negative portrayal. Finally, Lord Justice Sales is vilified as Tony Blair’s former colleague (and, therefore, a political enemy of the right-wing *Daily Mail*) and “pal who billed you £3million” when “defending the Blair government in a 2005 court challenge.” The use of the second person pronoun clearly demarks the opposition between the *us* and *them* groups: *they* are the judiciary who are wasting the tax payers’ money (or *you* who are reading the article and support the *Daily Mail*’s point of view). The text also mentions another instance of “charging taxpayers during his tenure as Mr. Blair’s First Treasury Counsel.” He is further criticized for having been too young to be appointed (35) in 1997 and generally can be seen as filling the role of the “venal lawyer” who is “counterpoised to the reasonable expectations of the ‘taxpayer’ whom the tabloids claim as their shorthand champion” (Conboy 2006, 96) In general, these character descriptions serve to denigrate the judges on both a professional and personal level as well as to distance them in so far as possible from the people. As we shall see below, such distancing is further enhanced through the use of images.

3.2 *Visual analysis*

The multimodal analysis that is proposed must also take into account not only images but also the stylistic and graphological elements of the news report. The layout of tabloids and, similarly, of mid-range newspapers like the *Daily Mail*, both in print form and online, differs considerably from that of a broadsheet newspaper “in terms of the size of the letter type and headlines, the use of colour, underscores, pictures and so on” (Van Dijk 2008, 163). We have already mentioned the use of a long (27 words) headline and two sets of bullet points, which are a common feature of the online edition of the *Daily Mail*. Both of these are written in bold font to stand out from the rest of the article. In the print edition the pre-headline “Fury over ‘out of touch’ judges who defied 17.4m Brexit voters and could trigger constitutional crisis” is written in a small bold font underneath which we can find the main headline ENEMIES OF THE PEOPLE all in capital letters with a very large font and bold typeset. The size of this main headline is roughly the size of the three bust shots (also known as ‘mug shots’) of the judges which are above both the headline and pre-headline. One can assume that this layout and these graphological features reflect the newspaper’s attempt to communicate as much information as possible to the reader from the very beginning. Yet, it also allows the newspaper to set up its claim that the judges are enemies by combining various semiotic modes. In the print edition, the combination of the three photos of the wigged judges dressed in formal attire (and therefore not the way they would have been dressed at the time of delivering their decision and clearly dressed differently from ordinary people) with the headline of almost equal size serves to transform the professional shots into a sort of ‘mugshot’ and give the impression that they are criminals who are now being judged as enemies of the people. Furthermore, such elements also allow the newspaper to postpone the attribution of negative statements about the judges until later in the article.

The webpage also includes a photo gallery consisting of six photographs of the judges, Theresa May, and Gina Miller. The pictures are also reproduced within the main article and at the top of the text boxes, together with a video of Gina Miller commenting on the decision in front of the High Court. Here, we will focus on the pictures of the judges and of Theresa May. We are interested in demonstrating the role played by the images in creating a negative portrayal of the judges but a positive one of May on the basis of the newspaper’s “ideological square.” Such an approach will help to focus on the diverse “roles played by the visual and the linguistic semiotics as social practices become ideologically recontextualized” (Machin and Mayr 2013, 356). The analysis will also be supported by notions drawn from Kress and Van Leeuwen’s (2006) *Social Semiotics* which views language and visual communication as distinct but equally important components. First, as we have already seen above, the textual and visual combine in

“intersemiotic complementarity” so that in a news report or on a web page elements the semiotic modes “produce a total effect that is greater than the sum of the individual elements or contributions” (Royce 1998, 27). We argue that the use of the images of the judges portrayed individually and in formal, institutional attire serves to highlight the judges’ distance from the public and the fact that they are indeed ‘out of touch’ through *démontage*.

In the three text boxes about the judges, they are pictured in formal attire, all wearing wigs. Importantly, although the Brexit decision was lodged by a panel of three judges, the newspaper makes the strategic choice of portraying the judges individually both visually and textually. Such an approach is most likely meant to heighten the perception of individual action and character that combine to create a more threatening judicial outgroup as a whole. In this way, the sum of the various negative parts is used both textually and visually to create what Wodak et al. (2009, 44) call “particularizing synecdoches,” thereby substituting “a semantically wider term with a narrower term.” We must not forget, however, that the semiotic choices by the newspaper of portraying the judges or “represented participants” in this way are aimed at attracting the attention of the readers or the “interactive participants.” The latter, in fact, must attempt to “make sense of images in the context of social institutions which, to different degrees and in different ways, regulate what may be ‘said’ with images, how it should be said, and how it should be interpreted” (Kress and Van Leeuwen 2006, 131). We will now analyze the three pictures of the judges and then compare them with that of Theresa May.

Only in the first text box, the longest of the three, is the represented participant, Lord Chief Justice John Thomas, shown in his entirety. As in the other photos of the judges, he is wearing ceremonial attire demonstrated by the mantle with a gold chain of office, while his hands are clasped, and he is smiling. The image is cropped in such a way that other represented figures are excluded, with the exception of an older man in the background, and the arms of two of his robed colleagues. This type of photograph can be referred to as an ‘offer’ image because the represented participant does not meet the gaze of the viewer, and in this way “we are invited to simply contemplate and observe” (Mayr and Machin 2011, 76). We would argue, however, that while Thomas is not looking directly at the interactive participant, the fact that he is indeed smiling and clasping his hands creates a sense of distance with the interactive participant: it is as if Thomas were privy to insider knowledge that only he can understand and “gloat” about, while clearly excluding the viewer.

The other two photos of the judges are stock images, bust shots of both Etherton and Sales dressed in formal attire, but wearing different types of wig. In the former case, Etherton is wearing a ‘full-bottomed’ long wig, which is generally worn by judges “on ceremonial occasions,”

while the latter has a ‘tie wig’ on, a type that is usually worn by barristers (Hu 2018), in clear reference to his former, highly criticized position as barrister in the Blair government. An image search on the internet reveals that these pictures are not recent,⁵ and, importantly, they are all stock images. While it is typical for newspapers to use such images, these particular ones are clearly employed for “symbolic representations” of judges (Mayr and Machin 2011, 107): they are all wearing a sort of uniform, they are wigged, and their expressions are either distant or condescending. Unlike Thomas, the images of Etherton and Sales appear to be much more serious, and their expressions could easily convey a sense of superiority or even scorn: while Etherton could be described as frowning, Sales’ smile is verging on a sneer. In both cases, they could be seen as “gloating” referring back to one of the negative statements in the main article. Also important in these images is their lack of a specific background and, therefore, their decontextualization. The gaze of the two judges is significant, as it is indeed fixed on the interactive participant, almost looking down on them and demanding attention and respect, as if “exercising symbolic power” over the reader/viewer (Kress and Van Leeuwen 2006, 118). Decontextualization is also important because it allows the represented participants to become more generic, “a ‘typical example,’ rather than particular” (Kress and Van Leeuwen 2006, 178). This message is even stronger in the print version of the newspaper in which all three judges are depicted side by side in similar attire and mugshot poses. Finally, in all three images, the judges are wearing ceremonial dress, which they most likely would not have been wearing when adjudicating the case in question. Furthermore, such dress is pointedly in contrast with that of ‘the people.’ In fact, although High Court judges are popularly known as ‘red judges,’ the red robes as the ones pictured in the photos are only worn in criminal cases and on ‘Red Letter Days’ such as the sovereign’s birthday and other saints’ days, when all High Court judges don a scarlet robe.⁶

Finally, we need to consider the picture of Prime Minister Theresa May, who is portrayed pensively, looking slightly askew at the camera as if she were seriously reflecting on an important and difficult issue. Importantly, this is not a stock image from an unspecified time period, but, according to the caption, from “last night,” i.e. when the decision had just been made by the judges, but she was not yet privy to it. The caption under the picture states: “The Prime Minister (pictured last night) was today told she does not have the power to trigger Article 50

⁵ For example, the very same image of Etherton was used in an article by the same newspaper entitled “Gay judge shatters ‘pink glass ceiling’ in landmark promotion” in 2008. Available: <https://www.dailymail.co.uk/news/article-1058749/Gay-judge-shatters-pink-glass-ceiling-landmark-promotion.html>.

⁶ <https://www.judiciary.uk/about-the-judiciary/who-are-the-judiciary/court-dress/examples/>.

to start the two-year Brexit process and must seek Parliamentary approval.” This too could be considered a ‘demand’ image, like the ones in the mugshots of the judges, but in this case, the demand from the viewer is very different. In the latter case, we are expected to enter into an imaginary unequal relation with the judges: they are the “out of touch” enemies who are looking at the people with “cold disdain,” while in the case of Theresa May she is looking directly at us, pensively, such that we are asked “to enter into a relation of social affinity” with her (Kress and Van Leeuwen 2006, 118). The context of the picture is also significant: she is in the middle while in the foreground and background there are softly unfocused wine glasses and heads, yet in the background, there is an out of focus woman who has a hand resting on the side of her face, almost in imitation of the Prime Minister. The colors, tones and objects all convey a sense of calm and clear-headedness, despite the difficulty of the situation the Prime Minister is about to face (on the following day). Thus, while the judges are portrayed in a completely symbolic and decontextualized manner, May’s image is anchored to the time of the events, symbolically suggesting that she is indeed more “in touch” with the issues at hand.

4. Preliminary conclusions

The present article has attempted to demonstrate the necessity of considering both textual and visual artefacts when critically analyzing media texts. It has been claimed that newspapers, like politicians and political institutions, can adopt populist frames in strategic ways to represent positive and negative social agents in society. The *Daily Mail* has been shown to have adopted a populist communication style as part of its right-wing and pro-Brexit stance in its reporting about the ruling by the High Court judges in November 2016. In retrospect, while the two rulings by first the High Court and later the Supreme Court required an Act of Parliament to trigger Article 50, these judges did not stand in the way of the process and at the time of writing (January 2020) the UK is poised to leave the EU. As part of this media reporting leading up to this, however, judges and the judiciary were often viewed as hostile actors purposely planning to overthrow the decision of the pro-leave voters, thereby bestowing to the judiciary “a degree of overdetermination” and implying that “it represents a self-serving Establishment, a privileged social class and a redoubt of pro-European sympathies” (Breeze 2018, 63). While the present discussion has focused on just one article in this ongoing debate, this has allowed us to investigate all modes employed by the newspaper to fulfil its pro-Brexit populist agenda.

As we argued, like politicians, this article from the *Daily Mail* can be seen as a representative case of populist discourse: beginning in the headline (and the pictures in the print edition) there is a clear-cut nomination and predication set up between the in-group of 17.4m pro-Leave voters,

Theresa May and the Conservative government and epitomized by the editorial voice of the *Daily Mail* and the judges, who are immediately branded as “enemies of the people” who have brazenly defied the people’s will. In typical populist style, in the newspaper, the pro-Leave voters in the referendum would appear to “ratify what the populist leader has already discerned to be genuine popular interest as a matter of identity” (Müller 2017, 29). In this case, the *Daily Mail* becomes the mouthpiece of the popular and populist leader. Yet, this populist discourse is not limited to the words printed, as there is a clear strategy of *démontage* by the newspaper in their use of pictures that serve, on the one hand, to further delegitimize the out-group, portraying judges as elite, out of touch, ceremonial, distant and even condescending in the way they look down at the viewers. The decision to publish pictures of only the three judges involved in the decision who are portrayed in formal attire, by their “gloating” gazes and in decontextualized situations was also strategic and allows the newspaper to further distance the judges from the people and portray them as an antagonistic collective. On the other hand, Theresa May is portrayed in a rather natural pose in positive surroundings at the very moment of apparent indecision over how to deal with these ‘meddling judges.’ The article justifies the actions of ‘the people’ as represented by the pro-Leave voters and politicians, while, at the same time, it uses anti-elite discourse in its discursive construction and collective representation of the judges and the judiciary. Furthermore, the combination of linguistic and visual modes used, on the one hand, to delegitimize the elite group, while, on the other, to legitimize ‘the people’ in both the print and online versions of the newspaper article creates constructions typical of right-wing populist discourse. And by examining how both language other semiotic resources combine to shape representations of different social groups, we can better understand various levels of populist discourse as adopted by the media.

Of course, this investigation was limited to the critical analysis of only one article in the very large media debate about Brexit and its effects for British society. Furthermore, we dealt with only one popular mid-market newspaper, which clearly adopts many of the typical features of tabloids, among the very rich landscape in the popular press that the UK offers. However, this has allowed us to undertake fine-tuned qualitative critical analysis on a pivotal text in this debate, which, in fact, was highly criticized at the time of its publication with some 1,000 complaints presented before the Independent Press Standards Organisation, and various members of the judiciary and government objected (Breeze 2018). It is clear that the article was pivotal in propagating anti-judiciary and pro-Brexit stances. Future research should focus on other articles and news outlets reporting on the role of judges and the judiciary in the Brexit process, but also on the ways that the public perceived this role and were possibly influenced by

the press reports. As a final point, we should reflect on the need for research about populism to consider how the media employs linguistic forms and multimodal representations in order to propagate populist discourses, thereby becoming political actors in modern political communication.

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