

Gina Miller



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Campaigning history

UK in a Changing Europe (UKICE): Before the EU referendum, had you had much contact with politics at Westminster through the various campaigns you'd been involved with? Did you see yourself as a political campaigner?

Gina Miller (GM): Not a political campaigner per se, more a social justice activist. It started all the way back in 1994/95, so quite a long time ago. I say to lots of people, when they say I popped up overnight, 'No, it took me 30 years to pop up from nowhere'.

It started for me at a very personal level, having a child with special needs. In those days, it was a real struggle to get access to statements if you didn't have money and there wasn't all the support you can get now. So, I started campaigning on provisions for special educational needs and statements in the Education Act that then went through in 1996. That's where I started and over time I worked on different things.

Ironically, the Modern-Day Slavery Bill is something I funded and helped and worked on when I was at the Centre for Social Justice (CSJ) for two years. I also worked on banning the export of outdated medicines and baby food to third world countries. So, there was a number of different avenues where I'd come across Westminster politics in my life – but I didn't actively go out and try and seek it out if you like. As I came across things in either my work life or my private life which I just felt were wrong, I'd get involved.

Over time, the political side – with a small ‘P’ – came more into the frame, especially around the law and constitution, because of the way I’d been brought up. My father was a political activist against a dictator and was instrumental in starting a political party, so it was full circle. It was something I’d grown up with and I never really saw it as doing anything out of the ordinary. I always thought it was just what you do: you see something wrong, and you step up.

UKICE: Did your campaigns before 2016 involve using EU law at all to take on the government?

GM: Some of it did, but my really close contact with EU law started in 2008, just after the financial crisis. Around then, I had launched a campaign to try and stop a lot of the dubious behaviour in the financial sector, because I just felt that things would just be brushed under the carpet, and nothing would really change. So, I started a very active campaign to clean up what I call the ‘dubious behaviours’ in the City, and with that I was lobbying the European Securities and Markets Authority (ESMA). I ended up drafting a text for Article 24 of the Directive on Transparency of Cost and Fees, and I worked on PRIIPS (packaged retail and insurance-based investment products), which is another EU directive. I also worked on the directive for capping bonuses in the City.

I worked with ESMA quite a lot, and a lot of the members of the Economic and Monetary Affairs Committee, over that period of time. So, my focus was working on financial services legislation and then I started looking at the whole issue of greenwashing and environmental and social governance and that side of benchmarking as well.

UKICE: What did you think when you suddenly heard David Cameron in his Bloomberg speech commit to an in/out referendum if the Conservatives won the next election?

GM: I was actually in the audience, quite oddly, and I didn’t know what I was hearing. I was pretty stunned. Then I thought, ‘It won’t happen, with the Coalition’. I was relying on Mr Clegg. I think part of me was stunned. but the other part of me just thought, ‘Let’s just see what the legislation looks like. It won’t be any time soon’, and sort of half dismissed it.

UKICE: Was that the general view in the audience?

GM: I spoke a lot at the Bloomberg events over the years. I think we all were a bit stunned. We couldn't quite understand it. I think the general consensus in the audience was that it's a moment of madness and we really won't be going there.

UKICE: When the moment of madness came to fruition how involved did you get in the 2016 referendum campaign? Did you think that Remain would win?

GM: I didn't actively seek to get involved but I was approached in October 2015 by some of the organisers of the Remain groups at quite a senior level, saying, 'Gina, we really could do with more women on our side speaking up, a businesswoman, a woman of colour'. I think they saw me as ticking three boxes in one go and didn't really understand who I was, and they regretted it afterwards.

At the time, they thought it was an easy thing. I could talk about the City as I campaigned a lot about the City and what Brexit would do to the regulations it faced. I could fill the roles that they were looking for.

I accepted I'd do this, and I remember going to my first event in October 2015, in one of the halls in London and expecting 30 or 40 people and opening the door to see about 300 people – mainly grey-haired men – and thinking, 'What have I let myself in for?'

The compere was Allister Heath, and on one side it was Luke Johnson and Helena Morrissey, and the other side was me. At the front seat were all the grandees, Lord Lamont and so on, all sitting there. I'd never done any of these sorts of debates before and I remember feeling quite terrified, but I thought, 'Right, I know what I'm going to say, I know my things', and so I stood up.

Every morning we were sent a hymn sheet of things you'd talk about in messaging, and I used to read the one on Financial Services or on GDP or what was happening to the economy and say, 'I'm sorry but I'm not going to say this because where is the evidence for this? You just can't make this up. You can't say this'.

So, I would stray off script quite a lot and use my own knowledge. I started being side-lined from major big events or media events in London and sent off to the sticks and I would go.

I travelled to Minehead and Cardiff and Yorkshire and I went around the country and I kept coming back and saying to them, 'One, your messaging is wrong. Secondly, this isn't an even debate'. I thought, 'We've got to change the way we talk about this'. I remember coming back from Cardiff in February 2016 and phoning up some of the group and saying, 'We're going to lose', because every street I walked down in Cardiff had Leave posters in the window.

I remember suggesting that our message should be that we don't just remain in the EU but remain and reform. We had to explain that we already had a really brilliant deal, a special deal, and that we hadn't lost all our sovereignty. We needed to address not the hymn sheet, but actually what people were saying and the messaging we knew the other side were putting out. But it fell on deaf ears, and I was told on several occasions that I worried too much, and that British people don't take risks and it'll be fine.

I have to tell you that, in the Green Rooms at many of these events, most of the Leave speakers were also saying that they wouldn't win. There was a collective view, not even that it would be close, but just that the referendum would happen, and Leave wouldn't win. I don't remember that changing until about two or three weeks before the actual vote itself.

When I realised that a Leave vote looked more likely, I kept asking a very simple question, 'What happens next?'. I was at an event which was a constitutional debate. (Vernon) Bogdanor was there, and John Kerr made a comment that nobody really picked up on and said, 'Well, we don't really know what Article 50 means'. He explained the haste with which it had been drafted and the fact that no one thought it would really be used and it was more ornamental than an act that we could actually use.

I was puzzled that nobody had picked that up. So, I went away and started doing a bit of my own research and reading some of the papers, and that's when I came across the paper from UCL. The more research I did, the more alarmed I was. That's where my focus and interest started- by that comment

which sparked my interest and made me think, 'Why aren't people talking about this more?'

UKICE: Where were you when you heard the result and how did you react?

GM: I was at home in bed. I had my son and my husband in bed, my son wanted to stay up and watch with me. He was only 12 at the time but he was really keen to know what was going to happen. Then he kept drifting off and falling asleep and then I think I drifted off and fell asleep.

We all woke up about five in the morning. When we realised the result of the vote, I think he and I both cried. He was very alarmed. At 12 years old, the first thing he said, 'What's' going to happen to me and my friends?'. That's the first thing he said.

I said, 'I don't know but I think we're not there yet. There are a few processes we have to go through before that'. And so that's where I was.

Miller I

UK in a Changing Europe (UKICE): You said that the more you started reading that Article 50, the more alarmed you became. What was it that set off your alarm bells?

Gina Miller (GM): Well, it was so simple. I think it's 126 words. But it was that line: 'in line with constitutional requirements'. Is that international law or is it domestic law? It was such an obvious question to be asking, because this seemed to muddy the waters, and so that's a question I kept asking and nobody seemed to have the answer.

UKICE: You were saying that you were walking the streets of Cardiff and you were seeing lots of Leave posters, and you thought there was going to be a vote to leave. Why was it that the Remain campaign just didn't pick up on this? Why were they not hearing what you were seeing?

GM: I think it was two things. One is they were very London focused. Many of them did not go around the country. They thought I'd got the short straw, and they were quite happy for me to do that. So, with a lot of them, it was talking to

the converted in a bubble.

I think the second thing that they were very naïve about was social media. Bearing in mind that my original background is in marketing, I thought they were underestimating the sophistication of social media, and its impact on messaging and how the story was being told. I think they underestimated how adept the other side was at using modern techniques and reaching people who were assumed to be – and still are, I think, to some degree – uninterested in politics and not really interested in having their voice heard. They really did misunderstand how people were being activated, if you like, through these very complex new methods.

UKICE: With Article 50, looking back on it, you were clearly ahead of the curve because there wasn't really proper discussion at the time about what happens next. There was lots of high-level discussion about the pros and cons of leaving but not the logistics of how to actually do it. Was it John Kerr who inspired you to look into that?

GM: John Kerr's comment inspired me to go and do a lot of research into it and try and figure out what was going on. And then, as with so much of my campaigning in business and life, it's about opportunity and being in the right place at the right time. Totally coincidentally on the Monday after the referendum, I had been booked to do an event at Mishcon de Reya in the evening to talk about why the diversity dial hadn't moved in the city.

It was nothing to do with Brexit or anything like that, they were not my law firm, I'd never met them before. Afterwards, when we were having drinks, I think one of the senior partners said to me – and I always say this is all his fault – 'Is there anything else that you feel passionate about?'. I said to him, 'If you'd never asked me that question, probably the rest of it would never have happened', because I think they still say I gave them a 10-minute rant and quoted professors at them, and they all looked at me in horror. But then they said, 'If you're serious, funnily enough over this weekend a number of law firms had started having this conversation', which I was totally unaware of. And they said, 'We think you should come tomorrow and have a meeting with us and a couple of the other firms.' And that's how it all started.

So, if I hadn't been there that Monday night, it probably wouldn't have

happened.

UKICE: And that meeting was before Theresa May had even got around to saying, 'We're going to trigger Article 50'?

GM: Yes. It was just about a letter to the Government asking about the process and we were told – myself and two of their existing clients – 'It's great that you're interested in this, but you don't have to be named, nothing has to happen. We'll just write a letter to the Government'.

They wrote a letter to the Government and that was the first inkling that there was going to be a lot of abuse coming their way or our way. And it went back and forth and eventually we weren't happy with the government's responses, and we decided that we'd apply. Then at the administrative hearing we, again, were told that only one person's name had to go on it and I said, 'Oh fine, I'd be happy to put my name to the hearing as the claimant.'

At the administrative hearing there were four different cases, and so there were four different sets of lawyers. I was with Mishcon and our team and our QC, and there were three other teams. We presumed that if one team was given permission – because at that stage it was a 50/50 – we'd all be given permission.

We never envisaged that there'd be a lead claimant. That's not something that had ever crossed our mind.

UKICE: How long a timeframe is this developing over?

GM: It was three weeks.

UKICE: So this is three weeks after the referendum. For our lay readers, what were you seeking to do at the administrative hearing? Obviously, we had the Conservative leadership contest going on. The Government hadn't said anything about how it actually proposed to handle Brexit or invoking Article 50.

GM: We were seeking the court's clarification as to whether there needed to be a vote in Parliament, or if whoever was Prime Minister could just trigger Article 50 and start the process. We needed clarification on that because if it

was deemed – and this was our thinking – that a government could do that, but that act then affects your domestic rights, then we would have changed the constitution.

A seismic shift would have occurred. So that was the clarification we sought.

It was a very short application. It wasn't particularly complicated, which is very different to the second case, but the first case we saw as being quite black and white and just asking permission from the court. Our case was quite different from the other three parties, as ours was literally about the process and whether there needed to be a vote in Parliament. When we were given permission and it was said, 'And there will be a lead claimant, Mrs Miller', I was in absolute shock because I really didn't know what that meant and none of us actually really knew what that meant at that stage.

We met the following day in chambers, and it was explained to us what that meant. Actually, that's when the abuse started: Mishcon's offices were attacked that afternoon, and my name was released.

The next day in a meeting, the other two men said that they couldn't go ahead. They needed to protect themselves and their families and their businesses. I remember Mishcon and David (Pannick), the QC, saying that if I pulled away, there wouldn't be a case because under British law, you need a claimant. I rather naively said, 'It's such an important issue, don't worry, leave my name on the case and lots of other people who are concerned will join me'. Yes. They said, 'That's no problem, others can join.' So I presumed charities, institutions, whatever, I just thought, yes. I never ever actually thought I'd be on my own.

UKICE: You then have Theresa May becoming Prime Minister. Did you have any expectation that she would follow the parliamentary route to triggering Article 50?

GM: Because I knew of Theresa's work ethic and the way she approached things from working at the CSJ and with her on the Modern-Day Slavery Act, I presumed she would. I didn't actually think there would be a problem. I wasn't contacted by any MPs on any side or from any party about the process.

At the time we thought we'd get a letter back, clarifying that this is a process the Government would follow, and we never actually thought we need to pursue it. Then the Government confirmed that they were going to pursue the case and said, 'Right, we're going ahead', and we were then given dates. The Government was given until October but as the claimants, we were given nine weeks to prepare the case which was horrifying.

My team were sleeping on the floor all weekend. Everybody was working over the summer. It was an extraordinary amount of work to do in a very short space of time when everyone is in different parts of the globe at that time of the year.

Anyway, we filed, I think, on 9 September. The Government then tried to get longer, and the courts said, 'No, you have to file'. Then we went to court.

I think the thing that people don't realise – and this is really quite shocking – is that when we won, nobody anticipated the Government would appeal. On the black and white letter of the law, if you read the case and the judgement, you couldn't see any grounds for appeal. But the judgement was in the morning, and I think it was within two or three hours that the Government said they were thinking of appealing.

I was terrified by that for a number of reasons. One, it meant that the abuse would carry on for even longer. This terrible place I found myself and my family in would carry on even longer. And secondly, I was a major funder, so I would then have to fund the next phase, going to the Supreme Court. On all fronts it was not what we anticipated. And looking back, the cynic in me says it just gave them time. There was no real legal reason for appealing the case, but it gave them time. I think that's the main reason they did it.

At the end of the day, it's not their money. It's not as though their putting their hand in their pocket. I think that with the political mire that Mrs May found herself in, it just gave her and her team more time to try and resolve the issues within the Conservative Party and decide what was going to happen next.

UKICE: Some of the people we interviewed seemed quite certain that the Government would win Miller I, that they had fairly clear legal advice that this was a legitimate way of using the prerogative, and they were quite surprised

that they ended up losing. What were your lawyers thinking?

GM: To us, the question was quite black and white, so we felt that it was 50/50 and they'd say yes or no and that would be it. We didn't anticipate it being it very complex. Some of the other cases – for example, the Sewel Convention and the Scottish argument – were quite complex, and we thought they would lose.

There were other cases where we weren't so sure, but we thought we probably had a better chance of winning because it did seem to be clear that you couldn't use the royal prerogative to change domestic rights. That did seem to us fairly straightforward, but it was a question whether the courts would go there. We actually thought the courts wouldn't rule at one point, because things were getting so difficult for the judges.

We were thinking that they could say that this is a political decision, that they can't put legal tanks on the political lawn and there wouldn't be a ruling.

UKICE: You were one of the main funders, but were there other people funding this? You had an incredibly powerful legal team and that doesn't come cheap.

GM: No. The Government luckily had agreed a cap, which they didn't actually do on the second case. On the first case they did and so there were a couple of existing clients and a few people who put in some money, nothing more than £25,000, but a lot of the team were working on an extraordinarily generous pro-bono basis. Even so, as you can imagine, it wasn't the cheapest thing to do.

I was so convinced that if that precedent had been set that it would change our country to such a degree that it was an important battle to have. I was convinced that we had to fight for this.

UKICE: How did you feel when you saw the *Daily Mail* come out with their 'The enemies of the people' front page after the Miller I judgement?

GM: I was horrified, naturally. I remember a gentleman whose mother who was a refugee said she shook when she saw it, and they sent me the 1932 image of the front page of the paper in Berlin. I never felt I'd see the day that the

British media would go to those lengths, because the danger of vilifying judges and the rule of law is so damaging to our country. It made me think that we were in a different country, which I had started to believe anyway.

I think my worst fears came to the fore when I saw that front page and then read the way they'd spoken about the judges, bearing in mind all through this I was taking lots of complaints to IPSO (Independent Press Standards Organisation) about the way they were writing 'foreign born Gina Miller', but never 'foreign-born Boris Johnson', or whoever it is that was up at the time.

The press was no longer independent, in my view, during that process. We started to see very dysfunctional, not just politics, but I think media as well, which we are still seeing today. I think our institutions were damaged hugely. It's a charge that I'm faced with quite often, and some people have said to me, 'Do you realise what you did? You damaged the courts and the rule of law. You damaged the media. You damaged communities and the fabric of society'.

There's a long charge sheet that has been put to me of the consequences, or the unintended consequences, of bringing that case, but of course at the time I was very focused on why we were doing what we were doing.

UKICE: What did you expect Parliament to do? You won the right for Parliament to have a vote on Article 50, and the Government published its white paper and brought in its short bill to give the Prime Minister a right to do that. Were you disappointed with the way Parliament reacted?

GM: Absolutely, because if you look at the other raft of legislation, there are requirements for impact studies under different legislation. There are equality impacts that need to be done. There are so many different things that are legally required before you can make these sorts of decision that have such a huge impact on the country.

I expected they were going to be requesting these studies of the impact in different parts of the country- 'how would you replace funding', and so on? I expected a lot of that to happen next. I didn't expect a rubber stamp.

I was utterly appalled. When I hear members of the Labour Party or

Conservative backbenchers who say, 'We fought for Parliament', I think, 'No, you didn't. You gave me absolutely no support'. Every single one of them stayed quiet.

I think in all the four or five years of the two cases, only one MP ever wrote me a letter, which is extraordinary to me. Not because I want them to – it's just that I thought that they would see what I was doing. I think it was a dereliction of duty and they are complicit in what happened and where we are now, by not standing up for their constituents by requesting proper impact studies and actually looking at what the deal would be and how different sectors and individuals would be impacted. That was the responsible thing to do.

UKICE: Did you actually have any contact with backbenchers about the possibility of tabling amendments to the Article 50 bill?

GM: I did then get involved during the negotiations I'd set up a campaign which was not meant to sway anybody, but it still annoyed a huge amount of the MPs. Because one of the things we did is, as MPs would get papers from people like the NFU or whoever which they don't have time to read, we literally condensed all the information coming from different places into no more than seven pages. It was basically a CliffNotes service for MPs.

We'd send them out to all 650 MPs, and we got some amusing responses back. I remember Kate Hoey saying, 'Don't ever send me anything ever again.' I replied, 'I'm sorry but your address is public, and this might be useful,' or entering really interesting discussions back and forth with members of the DUP who would ask more and more questions about what this meant.

It was apolitical. I just felt it was important because there was so much information coming from the leisure sector, from the food and drinks sector, from the constitutional sector. Whether they wanted it or not, we just thought it would be helpful if we could condense and get those facts and figures across. So, we did that all the way through the negotiations on the bill.

UKICE: You talked a number of times about the abuse that you've been subjected to. I imagine you had no idea this was going to happen when the case started back in June 2016. Does it still go on?

GM: Well, that's not quite right. I was used to a bit of abuse, and I've been called things like 'the wrecking ball in the City', and I'd already got the nickname of Black Widow Spider in the city, like I was going to bring down the City all by myself.

I was used to name calling and a certain level of abuse from my campaigning in the City and trying to expose the dubious practices there and also the charities sector, because I was also trying to reform the sector after the financial crisis. So, I'd done a lot of research and reporting on some of the weaknesses and lack of governance and transparency in the charity sector as well.

I was used to that, but there were many things that shocked me and disappointed me. One of those things was that Britain was not the country I thought it was, or it's appeared to be a different sort of country to me than it is, bearing in mind I was then looked after by the terrorist squad for nearly two years. We changed everywhere we lived. We stopped going out. My children received death threats. We all received death threats.

I was constantly being told that as an immigrant and woman of colour it was not my place to speak up or to have a say, or that I couldn't possibly be bright enough, so there must be lots of rich, predominantly white, men behind me pulling my strings, or that it can't be my money, it must have been my husband's money. There was a level of misogyny and racism that I didn't actually ever envisage.

UKICE: Does that still go on?

GM: When I pop up, it's still there, but it's less. It peaked again during the second case, because it was against Boris (Johnson) and his supporters were much more vocal than Mrs May's supporters, if you like. It's part of my life and I know it's a terrible thing to say, but I now think it's normal. I just sort of expect it. I now think it's an odd day when I don't get any.

I think lots of people underestimate me. I'm a survivor of domestic violence. I'm a rape survivor. They really can't do anything to me.

Political campaigning, April 2017 - June 2019

UK in a Changing Europe (UKICE): So we come to March 2017, where you start getting involved more politically and setting up Best for Britain. Can you tell us a bit about what the aims of that were, particularly as you were fairly quickly confronted with a surprise, at least for some of us, general election?

Gina Miller (GM): I think it's easy to forget, but in the run up to that election, Mrs May was actually predicted to win a nearly 100 seat majority. It was going to be a huge sweep. I felt, again, that it would be hugely damaging to our country if there was this massive majority at a time when we were making such seismic decisions. I think there was a sense that an election was coming in that April. So, in February or March, I started thinking about it.

I was intrigued by what had happened in Canada and how (Justin) Trudeau had come to power and the way he used tactical voting. So, I brought interested people together and said, 'Why don't we try bringing over the Trudeau team, if they're all around still, some of the academics and professors. Why try and reinvent the wheel? I understand we have a different electoral system but why don't we try and see what we can do to bring more of a democratic result of a more balanced government?' And that's exactly what we did.

We didn't know Mrs May was going to help us quite as much as she did. We chose 26 seats, and I was out supporting them, and I think we managed to win 22 of them, which was extremely positive. I left the day after the election, because I had made it very clear that I'd set up Best for Britain just for that election, to preserve a sense of democracy and balance in Parliament and I wasn't interested in fighting anything else. So, I left the day after the election.

UKICE: What did you do next?

GM: My family say they dread summer holidays, because for three years in a row and actually last year as well, I have made everybody work over summer when they think they're on holiday. The first summer was preparing for the first court case. The second summer after that, we actually didn't go to court, but I was actually preparing another case where we sent off a pre-action letter to the Government at the beginning of August about the billion-pound payment they were going to make to the DUP. We sent off a letter in August saying, 'You do realise you can't actually make this payment' and we copied in the DUP. I

remember Arlene Foster's office being absolutely furious when they received it. We went back and forth, and they said that they wouldn't, and, in the end, we didn't have to go to court because the Government agreed that they'd have to wait. Remember, the DUP were expecting the payment in the October, and they actually had to wait until a vote on it the following spring

That was another case I was involved in, but we didn't have to go to those lengths. I felt that if government could just give away, if you like, our money without any parliamentary involvement, that again that changes the way our government works. That's the theme. But for that one we didn't have to go to court.

UKICE: As a champion of parliamentary tactical voting, you succeeded. In a sense, Best for Britain got an outcome it wanted by Theresa May losing her overall majority in parliament, so she couldn't just railroad through any vision of Brexit she might want.

When you were looking at that and looking at the way the election arithmetic fell the day after the General Election, did you expect the Prime Minister to change course dramatically on the way she handled Brexit?

GM: No, that didn't cross my mind and that wasn't up to me. I was not involved on any sort of political level, so no. I wasn't interested, and I didn't really spend that much time thinking about it or reading about it. I just thought, 'It's now over to them, they'll get on with it and then we'll have a vote'. The negotiations were up to the government.

UKICE: What did you think about the emergence of the People's Vote campaign, the idea that there should be another chance to vote on whatever the final deal was?

GM: I was never involved. I told them at the first meeting I went to, that it was a terrible idea. I was totally against the campaign and since then, a lot of people don't talk to me about it and that's fine. I felt that it might be an option, but it was the wrong time. In all my campaigning for 30 odd years, I have found that timing is vital. It's when you do things that's very important. I felt it was just the wrong time, that Parliament had to go through the process and that they had to decide.

I went to one of the meetings and I went to one march and after that I said no, though I could see that it was a way out if Parliament had ended up in a difficult situation. I had proposed that if we were going to do this, and if things ever got to the stage where Parliament was hamstrung and this was the only way out, that actually (Nigel) Farage should have been involved. If you really want to it back to the country, you put all the options on the table. That was my input, which I think horrified quite a lot of people involved in People's Vote.

So, I wasn't involved in it at all.

UKICE: Did you ever at any stage during that parliamentary process, from 2017 to 2019, think about getting involved in politics?

GM: People were approaching me to do so, but it was completely the wrong time for me. Timing is, as I said, very important.

I have an eldest daughter in her 30s with special needs who, for the very first time, I was trying to put into assisted accommodation, which was a late stage. I had two young children. To do something like that, as I've always done, I would have to have thrown myself into it completely. It wasn't the right time for me, and I just kept saying, 'No, I'm not saying never, I'm just saying no'. So, at no point during that time did I consider getting into politics, even though I was being asked.

UKICE: As someone who's been so engaged in this, what were your feelings as you watched those two years unfold, with Parliament trying to get to grips with Brexit and flailing around and not coming up with an outcome?

GM: I think I was deeply, deeply worried, and I still am because Brexit's not over. I was deeply concerned about the fact that the divide wasn't healing and that it was being exploited at every opportunity. I felt that what we were doing to our country, the divisions we were creating, could actually last a generation and more because it was becoming cultish in nature.

I felt that exploitation by politicians and the media was irresponsible, both again not realising the damage it was doing to our country not just domestically but internationally. I kept saying that both sides were behaving badly. I just felt we aren't going to move geographically, so we have to find a way through this. I

am on record saying after the referendum, 'Well, we're all Brexiteers now because you have got to respect the result. Even though it wasn't a legally binding referendum, it was painted as such.'

I do think, and I've said to both sides and I still carry on saying these days, that the issues we are facing in the future, be it climate change, Ukraine, the fourth industrial revolution and technology, the mass movement of people, are issues which mean that we have to find a way to work together.

These seismic issues are not going to be things that we can deal with on a domestic basis on our own. These are all going to be challenges that require global collaboration and cooperation. The damage we were doing domestically worried me, but the damage we were doing internationally also worried me, because I thought we were damaging our reputation abroad. We're not going to be trusted. We keep changing our minds. We're not acting in good faith.

All along, I just couldn't understand why those considerations, which are much bigger than Brexit, were not being factored into the conversations and the debates that were happening.

UKICE: Did you end up with any sympathy for Theresa May?

GM: I did, because I've always tried to be cross-party, so I was aware of the bullying and name calling and the things that were happening behind the scenes and the lack of support she was getting. I think she experienced a huge amount of misogyny in her role as Prime Minister.

I think the other thing, though, is you can't change someone's personality. I'd still say as much as she's an effective MP, I'm not sure that perhaps that she was an effective Prime Minister, given her personality. At the same time, she had a very, very difficult task.

UKICE: What did you make of it when she stood down and it was clear that she was going to be replaced by Boris Johnson as Prime Minister?

GM: I was intrigued, I couldn't wait to see what he was going to say, because I was very well aware of his reputation in Brussels and from his time Mayor of London of a lack of attention to detail. You've got a prime minister who

doesn't have exactly the right personality traits for somebody in charge at a time when we're in negotiation, where every detail is a major factor in negotiating such an important international treaty.

I just presumed that he would put together a great team, and I presumed it would be the team in the negotiations rather than him. And also, because I was aware that he wasn't a committed Leaver or Remainer, I thought he would be more pragmatic. Again, I got it wrong.

Miller II

UK in a Changing Europe (UKICE): Can we move on to looking at the background to what became Miller II? I mean any sane person would say, 'I've had a brush with the legal system once, it would be madness to go down the route again'. And yet-

Gina Miller (GM): I never ever envisaged we'd do it again. I absolutely didn't, because I was aware the MPs would be more active, and they were working on things like the Benn Act. I never envisaged that I would have to do anything.

(Dominic) Cummings was the first person who made a speech and talked about prorogation for five weeks. I contacted the old team, as it were, and said, 'Have you seen this?' They'd obviously had seen it and we all went, 'Oh no, it's not going to happen'.

I cheekily said, 'It doesn't cost much, shall we just send off a letter just to ask?'

In the July, another summer, we sent off our first pre-action letter and all through the summer, the Government spent a huge amount of time and effort answering us and we got very detailed responses, quoting lots of case law as to why they weren't going to do it. The last one, I think, was on 27 August, and said, 'Absolutely, tell your client, Mrs Miller, that she has no reason to worry'. That was one of the longest letters, seven or eight pages, I remember.

I straightaway picked up the phone to one of my legal senior team and said, 'They're going to do it.'. And he said, 'What are you talking about?'. I said, 'There is no other reason you'd write me this long letter. They've already

considered it, and they've just shown us their hand. They've looked through all this case law already'. I'm a terrible cynic, I'm afraid. I looked through the letter over and over again and I thought, 'There's only one reason you would have done all this research and you would have done this much work'.

I took it as a confirmation that they were thinking about doing it. So, we sent one more letter, but we still didn't think we'd had to go ahead. The thing that worried me was that they were going to prorogue Parliament over 31 October, so the Benn Act wouldn't kick in and we'd leave with no deal. And that is when I was approached by a whistle-blower in late August, saying that that's exactly what was being talked about in Government.

So, at that time we knew that was a conversation. We didn't know that was definitely what they were going to do, but we knew that was a conversation that was happening in Number 10.

The thought of us leaving literally falling off the cliff with no deal was totally terrifying to me. We got the last letter from the Government at 5pm on the Monday evening saying, again, 'We can reassure your client that we won't be proroguing Parliament for an illegal length of time', or whatever the letter said. It was a much shorter one. Then at 10am the next morning, Boris announced that they were going to prorogue Parliament.

I think they were hoping that they had dissuaded us from preparing, but I was such a cynic, I told my team they had to carry on preparing. Then at 4:30- we were half an hour late, we had to file by 4:00- we filed, and the Government was shocked, because they didn't realise that we had carried on preparing. Then they said, 'Fine you're going ahead but we're not going to agree a cap.'

I think they were trying to bully me, if you like, into not going ahead. I talked to my team, and we all agreed this was a much more difficult case. They said, 'What happens if you lose, Gina?' I said, 'Well, I'm not going to pay a penny. They can put me in jail'. My team all went, 'What?'. I said, 'I'm serious, I'm not paying a penny. This is actually an important issue for our country and our constitution, why should I pay for it? I bet you they don't want to do that, so we're going to go ahead'.

I was much more nervous. We hadn't prepared for as long, and it was a much more complicated case. We then suddenly had, I think, a total 35 people apply to join us, at which stage it just got so crazy. We then kept saying to people, 'No, I'm afraid, you have to apply to court', John Major obviously being one of them. We just kept saying to people, 'Unless you have a different argument from our case, we'll share our skeleton, but there's no point you just repeating and joining us if it's exactly the same argument. You join us if you bring a new argument', which obviously the Major case did about the Privy Council and so on.

UKICE: How much coordination was there with the parallel case in the Scottish courts?

GM: We had heard that there was a court case going to the Scottish courts, but we actually didn't speak to them at all, because we felt that this case would eventually have to be heard in the Supreme Court.

We already had decided that it was such an important issue that it would have to, even with the courts were much more cautious.

In the end, it was a hugely surprising outcome to us, because we thought that the courts would be much more cautious. It was much more nuanced than the first case and we weren't sure. So, we weren't actually keeping abreast of the Scottish case, as we were so busy preparing our case.

UKICE: Do you think the government lawyers were being disingenuous, or do you think they genuinely didn't know that the politics was going to kick in? The fact they had seven pages of detailed analysis of the case suggests that lawyers had been looking at the background.

GM: I think they were considering it and I knew there was political pressure. I don't think the lawyers themselves probably knew that the politics would take over and they would just go for it. I don't think so. I think they were asked to do a brief and that's what they were doing, and they were responding to us, but I don't think so at all. I think when we asked for witness statements, (Nikki) de Costa refused to sign, so we actually went to court. None of the government officials would actually provide a witness statement for us.

UKICE: Given your thinking, you probably were not that surprised when the High Court initially rejected your bid...

GM: We weren't surprised because we thought what they were doing was telling us to go to the Supreme Court. If you read the High Court judgement, that's basically what they were telling us to do, and we were already prepared to go to the Supreme Court. We thought that this case was so much more complicated that it needed to be ruled on in the Supreme Court.

UKICE: And so, you went to the Supreme Court. Tell us about that.

GM: Oh my gosh, the cameras, the attention, it was the most extraordinary thing. I kept getting letters and emails from judges from all around the world going, 'We're watching'.

I mean this is a dry constitutional case, and yet it wasn't just the UK that was paying attention, but it was news around the world. And it's because a lot of the jurisdictions who rely on British law as a basis for their own saw this as being an important ruling for them. The case was extraordinary, David (Pannick) was being David, and there was also the fact that there were people with nooses outside the court room, and the police were not moving them on.

It was quite terrifying. The abuse was much worse in the prorogation case and the press were much worse. Whenever I'm stressed, my back goes, and there were occasions when I literally was wearing a brace just to go into court because I needed to be there just to show that I wasn't going to be bullied. It was a tough case. Sitting there to hear the judgement was one of the most emotional rollercoasters I think I've ever been on.

UKICE: Did your lawyers feel the pressure as well?

GM: Oh no, we just didn't know. I was watching David Pannick because I sat behind him when the judgement was being handed down and I could see him gripping the side of the chair and then releasing. There was literally one moment where we first of all we'd lost, then we weren't sure, then we thought we'd won and then we thought we'd lost, and it wasn't until the final few minutes.

It was an extraordinary judgement and then when we heard it was 11- nil, we were stunned, because we were all trying to read the body language of the judges and everything else, but we had no idea, no inkling at all. David also wasn't told, whereas normally your barrister would go in and he'd be given a nod. But we were told that the judgement would be read there and then and there'd be no pre-meeting.

UKICE: Then of course Baroness Hale received quite a lot of, depending on your side, praise or opprobrium. Do you think that was because she was a woman, or if it had been Lord Reed as President of the Supreme Court, he would have got the same?

GM: No, I think she got more and the way that they picked up on her brooches and what she was wearing and picked through her background – it was much more than it would have been if it was Lord Reed. There was definitely an element of her being a female head of the Supreme Court.

UKICE: We then had that session of Parliament restored, because prorogation was seemed to have not happened.

GM: And it was a disgrace. There were so many people turning on to watch it and I just thought, 'What is (Geoffrey) Cox doing?' It was like we were in some sort of a pantomime. And after everything, because this case was much worse and put much more pressure on us as a family, I actually did think – and I said to my husband – 'What was the point of what I've just done?'. I thought it was a disgraceful return for Parliament.

UKICE: Did you actually think that, in a sense, through the passage of the Benn-Burt Act, knowing that the Government that was going to prorogue early and put pressure on MPs opposing a no deal Brexit all together, that you'd already achieved quite a lot of the result you were looking for, even before the verdict came down?

GM: Well, no, because I was convinced that they were going to ignore the Benn Act. They were so cocky about it, and again, it just cemented my view that they had something up their sleeves because they just did not seem to be worried about it at all. I thought well, if you looked at the dates, they'd just go past 31 October, and then you're into no deal. It was literally shutting

Parliament and shutting down any and every process.

UKICE: Do you ever think that neither of the court cases was really worth it?

GM: I think the first one definitely was, from the point of view that a Prime Minister cannot use prerogative powers to just change our rights domestically. Our representatives do have to be involved, and that's preserving our representative democracy.

And again on prorogation, I think that was important because you can't just shut the doors on Parliament, but also, I think – and I never thought it at the time – that the prorogation case has come back to haunt Mr Johnson, because it's the first time he was exposed for the behaviour he's continued with ever since. I think people now see it from the point of view that he was willing to bypass Parliament and put himself above the law, and it's something that helped show his true character.

The future of British politics

UK in a Changing Europe (UKICE): Ultimately, the Prime Minister did an exit deal and then did manage to get his general election and 'Get Brexit done.' What was your approach to the 2019 General Election?

Gina Miller (GM): I conducted a second tactical voting campaign, following exactly the same process to make sure that, in the absence of proportional representation, we had an all-balanced Parliament. It's quite difficult, but we decided we'd make a tactical voting website. We weren't at that point wedded to anybody. Nobody knew what sort of majority they'd win. It was literally just trying to provide information and that's all we did.

I didn't have a political outcome in mind, if you like, at that election. It was more in pursuit of a balanced Parliament, which I felt would have been important.

The only thing that I think I was disappointed about was that we didn't have, not so much an official government of unity, but more of a cross-party senior group involved in negotiating the exit deal, because it was actually about the entire country. It's not about one party or one set of voters. It's actually about

the future lives of everyone in the country.

I felt that was disappointing, but that's just an aside and many people told me I was very naïve to think that that was going to be possible. So, we just provided information about two weeks before the actual election. Our polling was telling us that Boris was going to win with about a 30 to 40 seat majority, and then things changed significantly the week before the election. On the Monday morning when we got the data, it looked as if he was going to win close to 80 to 90 seats. So, something had changed in that last week.

We do know that a lot of it was thanks to social media. There were massive, massive social media campaigns happening on both sides, but something significantly shifted in that last week, and we know the result.

UKICE: Do you think with our electoral system, if you project forward from your various attempts to get people to vote tactically, that implied pacts and things like that are the way forward?

GM: I don't think they'll be the way forward. I think once we see the detail of the Elections Act, we will figure out if they are allowed or not, but I'm not sure.

I think we have a got a shifting of the political landscape. I think Lord Hailsham is correct in that I do think we are going towards an elective dictatorship with the legislation we have now on the statute books, and which is about to come before Parliament.

I worry about our system of government. I think Brexit and the pandemic, and everything have exposed that we do not have a system of government or political institutions that are fit for purpose in a modern age. We do need to have more checks and balances and we need to have a better culture; we need to have more checks on spending and procurement.

My experience of that started through my court cases and trying to talk to MPs and trying to get them to stand up and speak, and them saying, 'But we'll have the whip removed'. Unfortunately, what I suspected was confirmed, in that I don't think we have a proper functioning democracy. Tactical voting is about giving people information. I don't actually think it is necessarily right that people step down or not stand in seats. I think people should make their

decision based on all the information. But in the absence of proportional representation, I do think that tactical voting in some respects is a sensible choice.

UKICE: Have you been tempted since the general election to get legally stuck in again, if the Government pursued the Internal Market Bill or any other contentious action around Brexit?

GM: So, when Covid happened, I was working on the Covid emergency act, and I was campaigning on video wills and bedside wills. The government were very receptive, and Robert Buckland was in particular, and so we got some of that in.

I worked with a couple of MPs on trying to bring in the sunset clause on Covid regulations because a six-month review wasn't in the original act.

So, I was still active in all of that, and I've been campaigning now for two years on the Online Safety Bill, and I've submitted to the committee. I'm still involved in those sorts of campaigning and using the law in those respects. I think with a huge majority, unfortunately, a lot of the opposition and amendments and things as we've seen have not gone through and the Government can pass literally anything they want, which is more or less what they're doing.

UKICE: If the Government put forward a bill to essentially turn off, or give themselves powers to turn off, parts of the Northern Ireland Protocol, would you be tempted to challenge that?

GM: No. I mean, I know there is a challenge, and I was approached by the person who is bringing that challenge to the Supreme Court under Article 16, but no. I think we've gone to a different phase now. You run to the courts when you think you can do something, but I think there is such a thing as running to the courts too often. If you look at how the judges are being called leftists lawyers, there is a coordinated attack on the rule of law and on the legal profession. Because that has increased, I am mindful not to press on that door as it plays into the narrative of the government or a particular ideology. I'm not willing to do that.

I've made the decision to do the thing I said I'd never do, which is to go into politics. There are constitutional concerns I've had since 1997 and I have been quite appalled at how secondary legislation has been used. And actually, it's not just modern governments, there has been an erosion of the way Parliament's been involved in legislating for decades now.

We have to modernise our machinery of government and so that's where politically I'm putting myself now. We've launched a campaigning/challenger party and that is our remit.

I'm not interested in being a politician. I'm interested in how we make our system fit for purpose for the future, because I don't think our government is, our institutions aren't, or our centralised system of government. The way we fund local government isn't sustainable. There are lots and lots of things that I think need to be changed.

I never thought we'd be in a place where these are messages that would land with the British public or the British voter, but Covid has given us the opportunity by exposing quite a lot of the weaknesses in the system. That coupled with somebody who has no respect for the idea of acting with principle and integrity and not pushing the boundaries to the nth degree. I think Mr Johnson is an exemplar of the weaknesses in the system.

So, those things together with the changes in the public consciousness throughout Covid has created an opportunity, which I don't think will necessarily be here for many years. Again, it's timing, and so what we're going to try and do is explain these issues to the public. To me, winning is either getting these ideas on the political agenda more broadly, or fighting some seats and winning them. But that's where I am right now.

UKICE: If you walk down the street, do you get recognised?

GM: When we launched the True and Fair party, I wasn't sure if I would be, and that's something we had to test. In the space of six weeks, I've done 19 tours up and down the country, some to very strong Brexit-voting areas. And I have to say it is still quite terrifying, because you never know when an angry faced group of men walk up to you, what they're going to say next.

It's like 'Oh, you're that Gina Miller. You're the woman who went to court'. And they either go, 'I voted Brexit, but you were right' or 'I voted Brexit and you tried to stop it'. Of the 19 areas, only 2 we visited have actually said 'We haven't changed our minds'.

People are more thoughtful about the impact of Brexit and what that means, but they can't tell if it's Covid, Brexit, whatever. It's still all bound up together, but the thing that people talk about almost consistently around the country is Partygate: one rule for them, one rule for us. And this is not just about the Conservative Party. This is a replay of the expenses scandal. It's hurting all politicians. It is definitely not just about Conservatives.

That is something we did not know until we travelled around the country – that people think they're all the same, we don't trust any of them. They're all in it for themselves. So, I say, 'I'm not a politician, I'm not interested in that. I'm interested in transforming and change'. So that's interesting.

The other thing, which is quite alarming, bearing in mind I believe in our democracy and elections, is the vast number of people of all persuasions, all ages saying, 'We're just not going to vote'. It's everywhere.

UKICE: You gave the sense that you felt the UK's constitutional settlement was pretty ramshackle even before Brexit. There were already quite a lot of underlying weaknesses and maybe the way Brexit was handled put more pressures on that. Where do you think we are constitutionally now? Looking back, what do you think the last five, ten years have shown us about the state of the British constitution and British politics?

GM: I think we need to have reforms. Those who champion a written constitution are possibly naïve about how long that would take and the process behind it. I mean. that is a mammoth job.

So, this is why I instead talk about things like a government that would put prerogative powers on the statute book, putting the Nolan Principles into law, instituting some sort of legally binding oath that politicians have to take, having no second jobs, reform of the second chamber. I think there are things we can do to strengthen our system. That is why I say transform rather than change completely, because the move to a written constitution is a huge, huge job and

I don't see how we get there and in the meantime what do we do.

With 56 MPs being investigated for sexual misconduct or harassment and bullying and all the things we're going through now, I think we need reform. I think the trickle-down effect of that would be better governance, better culture, better behaviour and Parliament would attract better people. I think there will be an effect that comes from that. And I say that coming from a business environment where, when we have changed cultures within an organisation, it not only comes from the top, but it comes from all the checks and balances and the transparency you have as well.

I think that's much more feasible and would be a much quicker fix than having a written constitution.

UKICE: Quite a lot of your proposals are quite similar to some that have come from Reform UK. Do you have any conversations with Richard Tice?

GM: Richard and I actually spoke on the same platform in favour of proportional representation. We're completely aligned on needing a fairer voting system. I think when it comes to the reduction in legislation and rights, we are quite far apart on that. But some of the checks and balances we do agree on, for example, on second jobs, and on reforms of the House of Lords. Though he's got ideas for much more radical reforms in the House of Lords than I do, because I do think there's a valuable function that the Lords performs. We're aligned on a few issues, but certainly not all!