



The least bad deal on Brexit for workers

David Renton

Thinking about how to make the best out of Brexit is rather like the old joke. A man from the city is driving through narrow country roads. The evening is getting late and the driver is badly lost. He sees a compatriot, standing at a country gate. “How do I get back to the city?” the driver asks. The man tells him, “I wouldn’t start from here.”

How we got here

The reason Brexit has this character is that the idea of Britain leaving the European Union has always been associated with a particular tradition on the right. The “big names” of Brexit – Nigel Farage, Dan Hannan, Dominic Cummings, Patrick Robertson, Boris Johnson – share the same formative experience. They were young supporters of Margaret Thatcher, the Conservative Prime Minister, who had ushered in the country’s neoliberal turn, but was forced to resign largely over her hostility to Europe. A praetorian guard deprived of their leader, they settled on Brexit as a strategy to drag the Conservatives and Britain to the right. The reason they supported Brexit was in order to remove Britain from the European Union’s complex systems of workplace and environmental controls, and the costs these brought to business. Later, Brexit was able to become a mass cause in the mid-2000s at a time when millions of people accepted the right-wing argument that there has been too much migration to Britain, much of that migration coming from other European nations.

Conversely, in so far as there has ever been a ‘left’ basis for Brexit, it originates in the legacy of the British Communist Party, with its attempts to formulate a left radicalism based on the idea of protecting the nation and the people from malign foreign interests - German Nazis, American capitalists, and so on - and in the tailing of those ideas by others on the left. Unlike South Africa, France or Italy, such Communism was always a small minoritarian tradition on the left here – and has no social basis except for a very few individuals located unhappily in close proximity to Labour leader Jeremy Corbyn.

When Conservative leader David Cameron called the 2016 Brexit referendum it was on the assumption that the people would vote Remain. Staying was the no-change option, and Cameron had previously won referenda against proportional representation

and against Scottish independence (although with a narrower majority each time). Part of the reason Cameron lost was that, as Prime Minister, he had governed through six years of cuts to public finances. People who were getting poorer quickly saw little benefit from more of the same.

Cameron’s defeat has led to the replacement of a bad set of leaders with ever worse ones: cynical, content to promise the world to their supporters, and motivated only by the desire to make life ever easier for the rich and worse for those without.

Rights for migrants; rights for everyone

For all workers, the first priority has to be to safeguard the interests of the three to four million EU migrants in the UK, who together constitute around a tenth of the working population. At present, the government is offering those who apply for it ‘settled status’, which sounds like a right to remain in the UK for as long as they like.

The problems with the scheme are as follows. The content of settled status is actually hazy. It is not a guarantee, and the government is reluctant to settle anything on paper. At present the UK proposed to leave the EU with or without a deal with its European neighbours at the end of October 2019. Should no deal be reached, it is not at all clear that this status will remain on offer or for how long. In addition, a high proportion of applicants for settled status have been refused: 42 percent in July 2019 (Gentleman, 2019). Some have been rejected outright, others by offering them a further intermediate status which will need to be renewed. Tens of thousands of workers have been added to the category ‘illegal migrant’, so that it will be a criminal offence for employers to keep them in employment after 2020, and the workers concerned face the risk of being jailed or deported.

When such a large number of workers face an existential threat to their status, this is a harm to everyone else. It empowers the worst bits of the British state – our police, our immigration officials, and the dynamic by which the functions of policing the borders are increasingly pushed downwards towards teachers, lecturers, doctors and other public sector workers. It weakens everyone, irrespective of their own immigration status. The first

task for the workers' movement, it follows, is to demand a guarantee that those who have been unsuccessful in applying for settled status will be allowed to remain – both at work, and in the UK.

EU and UK law

Second, workers need to keep vigilant to ensure that as little as possible of our present system of workplace and environmental rights is undermined. This will be a hard task, for the very purpose of Brexit is to relegate the social content of Britain's trading relations with the EU (subject as those are to systems of workplace rights, freedom of workers to move, and limited democratic supervision through the elected EU Parliament) through a new trade treaty with the United States whose key terms are likely to include the auctioning of British state assets (the health service) to US-based venture capital, the opening up of the British food chain to US agriculture (which operates with much lower standards of consumer safety, such as the risk of imported 'chlorinated chickens'), and so on.

Some unions here have attempted to bargain collectively, demanding, for example, collective agreements with employers continuing to employ the best of both UK and European law. As a strategy for bargaining, though well-intentioned, this is cumbersome and impractical. There is a reason that workers take their dispute to the law, and that is that the law provides a certain minimum threshold of rights which many employers flout. To require them – or the unions – to apply the best parts of UK and European law on an issue-by-issue basis is to require lay people to know the law, and to keep on top of its changes, as well as any specialist lawyer does.

A simpler demand would be addressed to Parliament that UK law should continue to apply EU workplace and environmental laws (that is, that courts here should continue to apply the relevant parts of the European Treaty and any new European directives as we do at present, as if they were UK law). In fairness to the Labour Party, its leaders seem to have slowly grasped this, and their present position appears to be that if the Conservatives are defeated in the general election, they will seek to negotiate a softer Brexit with the European Union, one that is as close as possible to the present arrangements (BBC, 2019).

Escaping Brexit

Finally, is there any way at all that Brexit could be reverse engineered to create a dynamic of increasing rights for working people?

It makes some difference who gets to negotiate with the European Union. In the UK's unevenly-codified but real constitution, a governing party acquires its democratic mandate and its legitimacy only because it controls a majority in the House of Commons. Boris Johnson's Conservatives have lacked that majority since early September – which, in turn, explains why he was so keen to prorogue Parliament and why the Supreme Court in Britain has had to consider whether that decision was compatible with our democracy.

A Labour Brexit would be better than a Brexit one. That said, Brexit itself is never going to be a programme for greater equality. If the tasks of the moment are still the ones that Labour identified in 2017 – that is, limits on private landlords, rent control, and systems of national pay bargaining to protect the situation of the least secure workers - then none of these have been prevented at any time in the past forty years in Britain because of some imagined limits within European law. Even in its least malign form, on the left, Brexit is about mis-explaining to people where oppression and misery come from.

The route to equality is in escaping Brexit: its lies, and the rightward drift it encourages among the most passionate of its supporters and its opponents.

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References

Gentleman, A. (2019) 'Rise in EU citizens not getting UK settled status causes alarm'. *Guardian*, 30 August. Available from: <https://www.theguardian.com/politics/2019/aug/30/eu-citizens-uk-settled-status-alarm>

BBC (2019) 'Interview with Jeremy Corbyn', *BBC*, 20 September.

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