

## The Politics of Brexit: European Free Movement of Labour and Labour Standards

Charles Woolfson



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## Abstract

This paper attempts to reassess the Brexit debate in the UK over immigration and free movement of labour in terms of the politics of austerity. It advances a progressive case for Brexit based on regaining national sovereignty to enable the effective defence of national labour standards outside of the neoliberal European project. The issue of labour standards is a cause that paradoxically the current Conservative administration has sought to champion, although on a highly contestable basis. In the UK general election of 2017, the Labour Party has significantly advanced its position on the basis of an anti-austerity program while the Conservative government has entered into a likely terminal crisis. It is argued that rejecting membership of the supranational European Union has the potential to advance labour rights further in an inclusive and non-xenophobic way.

*Key Words:* Brexit, free movement, labour standards, austerity, European Union, national sovereignty.

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# **The Politics of Brexit: European Free Movement of Labour and Labour Standards**

*Charles Woolfson*

## **Introduction**

The United Kingdom referendum of June 2016 called by Conservative Prime Minister David Cameron to decide on whether or not to retain membership of the European Union, produced a voter turnout of 72.2 percent and yielded a majority of 51.9 percent for Leave as against 48.1 percent for Remain (BBC News, 27 June 2016; Electoral Commission, 2016). For the UK political and financial elites the referendum result was unexpected and unwelcome, viewed as threatening to bring with it untold negative consequences for the British economy and, if IMF projections were to be believed, for the global economy (IMF News, 19 July 2016). The Conservative Party had been long divided between its anti- and pro-European factions, the latter mainly seeking to preserve the dominance of the City of London in European finance. Since the early 2000s the Conservative Party had found itself dragged further to the political right by the UK Independence Party (UKIP), taking Conservative seats in local by-elections, in elections to the European Parliament, and from 2014 the successful election of its first member of parliament, espousing an uncompromisingly populist message as the only avowedly anti-European and anti-migration party. David Cameron's ill-judged gamble on a referendum vote to remain or leave the European Union was designed to try to marginalise the politics of UKIP and shore up the voter base of the Conservative party at a time when many were increasingly defecting to UKIP.

Cameron's attempt to renegotiate the relationship of the UK with the European Union, in particular, to secure agreement to limit the free movement of migrants from other member states of the Union failed to convince. The 'deal' he returned with from Brussels in February 2016 involved no fundamental redesign of the current relationship with the EU. It entailed agreement to the creation of an "emergency brake", possibly for up to seven years, that would have temporarily restricted newly arriving EU workers to certain areas of the labour market. In addition, access to non-contributory in-work benefits for a period of up to four years from the commencement of employment would be denied. Why such benefits access might even be necessary for those EU migrants in "paid employment" was not discussed. Equally obvious, was the domestic failure to "stem the flow" of EU migrants arriving in Britain in numerical terms, especially in the aftermath of the 2008 crisis which hit the newer EU member states especially severely. Offering his parliamentary colleagues a free hand to campaign either for the 'Remain' or 'Leave' camps simply sealed his fate. The 'Leave' campaign leadership had senior cabinet ministers at its disposal and populist Conservative demagogues at the helm like Mayor of London, Boris Johnson, seeking to outdo the UK Independence Party in hostile rhetoric towards to immigration. By contrast, the

‘Remain’ campaign had little to offer except to attempt to mobilize a grotesque ‘fear of the unknown’ should British voters be wrong-headed enough to opt for exit from the EU, and the absurd threat that each individual British family would be four thousand UK pounds worse off per year. Paul Mason summed up the collapse of the Remain campaign: “three weeks before the vote, the Remain campaign - dubbed ‘Project Fear’ by its opponents – ‘ran out of steam’”. As Mason put it, “Once George Osborne (then Chancellor of the Exchequer) had promised to crash the economy with a kamikaze austerity budget if Brexit triumphed, and once Obama had come and gone, and once Donald Tusk (President of the European Council of Ministers) had warned of the collapse of western civilisation - there was nothing left to warn about. All the ammunition of fear had been expended” (Mason, 2016).

“Project Fear” notwithstanding, leaving the European Union however has proved to be no simple matter. It was quickly apparent as negotiations commenced with the European Commission over the terms of UK exit that the combined asymmetric weight of the Commission and the remaining twenty-seven EU member states placed the UK negotiators at a disadvantage. The possibility of these negotiations eventually collapsing without an agreement remained real. Article 50 of the Treaty of the European Union having been triggered in March 2017 provided the legal basis for notification of the UK’s intention to withdraw from the EU. These negotiations required to be completed by 20 March 2019, that is, within a two-year time period. The prospect of failure to achieve a negotiated Brexit, and with that the possibility of crashing out of the EU single market and customs union without an agreement on a future trading relationship with Europe, was not simply an initial negotiating stance (The UK in a Changing Europe, 2017). It would entail the UK immediately reverting to World Trade Organisation (WTO) rules and the imposition of a tariff barrier on all UK exports to the mainland European continent. This outcome conjures a vision of a post-Brexit Britain as akin to an offshore “Singapore of the West”, typified by a business-friendly environment, low or, in some circumstances, zero corporation tax, low wages, weak trade unions, and a temporary migrant “non-citizen” workforce, largely without the protection of national labour laws, comprising a significant mainly lower-skilled section of the working population (McTague and Guerrero, 2017). For the labour standards of both domestic and migrant labour the implications of such a scenario are profoundly concerning. They raise the question of whether another Brexit is possible, one that is progressive and enhances the rights of working people.

This paper addresses issues of reclaiming national sovereignty, the problematic nature of free movement of labour within the European Union, and specifically, the future of labour standards in a post-Brexit Britain. The paper proceeds as follows: following a short discussion of the notion of progressive nationalism, a brief overview of the voting patterns of the watershed 2016 EU referendum result is offered in order to clarify the political dynamic that led to Brexit. Second, contentious questions of the European Union contribution to labour rights and the contradictions of free movement of labour are discussed. Third, in the context of a Brexit Britain, the current Conservative Prime Minister’s paradoxical rhetorical commitment to “social justice” and the preservation

of labour rights is critiqued as a stratagem to inject a populist pro-worker discourse into the politics of Brexit. Fourth, the UK general election of June 2017 with its surprise outcome is considered in the context of a developing anti-austerity mass movement led by Labour. In the conclusion, the paper briefly sketches a possible internationalist future for labour standards in a post-Brexit Britain that is a fully sovereign popular democratic project.

## **The case for a progressive Brexit**

By contrast to the allure of free-market deregulated future for post-Brexit Britain, deployed by certain enthusiastic proponents of Brexit, there is a neglected and largely unarticulated counter-argument for a more progressive Brexit. This foregrounds the need to ensure enhanced labour standards and protections for all working people in Britain, native-born and foreign, outside of the embrace of the EU. The challenge is to develop this position for a progressive Brexit in a non-racist and non-xenophobic manner (Watkins, 2016). Discourses of anti-immigrant and Islamophobic hatred provided particularly toxic propulsion to the Leave campaign during the EU referendum campaign of 2016, most evident in the UKIP's appeal to "little Englander" sentiments of sections of the electorate. For those who had to endure the rabid anti-foreigner and anti-migrant campaign by UKIP during the EU referendum, it was a deeply shocking and saddening experience. Revulsion at sharing any commonalities with covert and not-so-covert racists has however inhibited critical thinking among progressives. The febrile political atmosphere created by the Leave camp during the Brexit referendum and its aftermath has led many to embrace a reactive pro-EU position. This is especially so among Britain's embattled Black, Asian and ethnic minority communities. Such a position while understandable obscures the largely unvoiced arguments for a recuperated national sovereignty that requires ending UK membership of the European Union, but on a wholly different premise: that exiting the European Union provides new potential for advancing working-class interests and securing decent labour standards.

The core argument of the progressive case for exiting the EU is that recuperating democratic national sovereignty is incompatible with continuing EU membership and with the legal supremacy of the Court of Justice of the European Union. A recent article by Samir Amin is valuable in reminding of the important site of struggle at the level of the nation state in building strategic alliances against capital and, at the same time, developing an internationalist counter-movement to contemporary neoliberal austerity. The unelected and politically unaccountable European Commission, leaving aside the politically impotent European Parliament, represents a configuration characterized as an "absolute denial of democracy" and "incapable" of reform (Amin, 2016; 2017). A progressive position in favour of leaving the European Union rejects interventions in national policy decision-making in the form of imposed austerity (mainly with the complicity of the national ruling classes). The exercise by the EU's supranational financial institutions of tight disciplinary fiscal powers has eroded the economic independence of member states, foreclosing choices as to alternative paths of socially equitable

development. Thus, planned industrial investment to rebuild local economies, as well as state-led interventions and democratic forms of public ownership that could generate decent jobs and sustainable growth at the level of the nation state, arguably simultaneously rule out EU membership. In this view, Brexit offers space for progressive forces to assert democratic control over the direction of economic development and decision-making at national, sub-national, regional and local levels.

This view of the European project as intrinsically neoliberal and incapable of democratic renewal is at odds with the contention of Yanis Varoufakis, former finance minister of Greece under the Syriza government and leading left European intellectual. Varoufakis has argued that it is “still possible to fashion a democratic EU” through “a pan-European movement of disobedience with the transnational elites” (Varoufakis, 2016). This contested view of the EU project brings to the fore issues of globalisation, democracy and national sovereignty that are crucial for left advance (Denayer, 2016; Fazi, 2016; Mitchell and Fazi, 2017; Streek, 2017). For European progressive movements and beyond, a critical understanding of these divergent positions therefore has important implications and is the broader political context for the current contribution.

## **The EU referendum vote and migration**

In 2004 eight new member states from the ex-socialist countries of the former Eastern bloc joined the European Union; Hungary, Slovakia, Czech Republic, Slovenia, Poland and the three Baltic states of Estonia, Latvia and Lithuania, with Romania and Bulgaria following in 2007. Migration flows to the UK, especially from other European Union newer member states provided the touchstone for the debates on EU membership. According to the Office for National Statistics, EU immigration for work began to increase following the EU Accession (enlargement) in 2004, from 65,000 in 2004, to 125,000 in 2007. There was a decline in EU immigration to the UK during the financial crisis of 2008 and 2009 among EU8 citizens from the post-communist newer EU member states. Up until 2012, immigration remained steady at around 90,000 per annum. Since then EU immigration for work has increased from both EU15 and EU2 nationals, the latter following the lifting of the transitional controls at the start of 2014, seven years after Bulgaria and Romania’s accession to the EU, the former coinciding with the weak labour market conditions in southern European EU15 member states. The net migration estimate from both EU and non-EU countries for the year ending December 2015 was in excess of 333,000 of whom slightly more than half were of non-EU origin (ONS, 2016a). An estimated 2.37 million EU nationals worked in the UK as of August 2017, bringing the total number living in Britain to some 3.6 million. Between April and June 2017, compared with the same period in 2016 there was an increase of 126,000 EU migrants working in the UK, yielding the highest figure since records began two decades ago. This increase appears to have been driven by a large increase in the number of Bulgarian and Romanian nationals to 337,000 and a relative decline in numbers of EU8 nationals from just over 1 million to 997,000 (*The Financial Times*, 16 August 2017). In total, EU nationals constituted about 13 percent of the total UK

workforce, on a par with other major European older member states such as France and Spain (around 12 percent) (Migration Observatory, 2016).

Since the 2016 Brexit vote, perhaps as a reaction to the spike in recorded “hate crimes” and a generally hostile social climate towards foreigners, as well as a sharp fall in the value of the pound compared to the euro, there has been a fall in net migration from the EU8, while for workers from the EU2 the wage premium still makes the UK an attractive destination. According to the Office for National Statistics, EU8 (East European new member states) citizens have partly driven the changes with a fall in immigration (down 25,000) to 48,000 and a rise in emigration (up 16,000) to 43,000 in 2016 (both statistically significant changes), resulting in the smallest net migration estimate (+5,000) since joining the EU in 2004. (ONS, 2017).

The political problem for the Conservative government in the run-up to the EU referendum was that it had “manifestly failed” to deliver on David Cameron’s 2013 public pledge to reduce net migration over the coming years “radically” to a figure of “just tens of thousands” (David Cameron, 23 March 2013; *The Independent*, 26 February 2015). Theresa May’s subsequent promise as successor Prime Minister to Cameron to “get control of the number of people coming to Britain from the EU” was also framed in terms of a target of “tens of thousands” (Theresa May, 17 January 2017). The hinge issue in the EU referendum vote was the question of the free movement of labour from other European Union countries. Polled in the aftermath of the referendum vote, 33 percent of respondents indicated that migration was the chief reason for supporting Brexit (Lord Ashcroft Polls, 2016). One startling finding, however, has been that a high proportion of Leave voters, with the exception of towns experiencing significant East European inflows to agricultural work, such as Wisbech in Cambridgeshire and Boston in Lincolnshire, were not concentrated in areas of the most immigration.

More importantly, analysis of the Brexit vote by area suggested: “Areas with a predominance of anti-immigrant sentiment are commonly characterized by long-term structural factors, resulting in low wages, low levels of education and high unemployment, alongside relative ethnic and cultural homogeneity” (Lawton and Ackrill, 2016). Such research corresponds with other analyses using polls by YouGov and Lord Ashcroft, which found that “voting was correlated with district-based profiles of age, education (in particular, having a degree or not), income and social class (albeit with some outliers)” (Lawton and Ackrill, 2016). Thus, high proportions of Leave votes were observed in districts with an older age profile, lower proportions of residents educated to the equivalent of a degree, lower median earnings and lower proportions employed in highly skilled occupations. Such areas are located in the declining industrial communities of the North of England and the Midlands, and in some parts of Wales, in other words, in areas of industrial decline particularly hard-hit by austerity policies of Conservative administrations which since the crisis of 2008 had entrenched pronounced regional disparities between London and the South-East and the rest of the UK (Hazeldine, 2017).

As detailed research conducted by the Institute for Fiscal Studies has revealed, policies of austerity have polarized the population by heightening social and economic

inequalities since the crisis of 2008, while undermining standards of living of the average working family through a decline in real earnings (Belfield, et al., 2015). The previous Conservative-led coalition government under David Cameron's premiership had significantly increased the minimum wage to establish a national living wage, although at the same time reducing tax credits for the working poor. The Conservative austerity program saw public sector cuts in 2010 intended to address the huge budgetary deficit inherited from the crisis spending of the preceding Labour administration. The cuts in social services and education, included staff reductions in most government departments involving around 300,000 job redundancies as well as widespread public sector pay freezes. Trade unions again found themselves under increasingly hostile legislative pressure (Williams and Scott, 2017). These measures stood in glaring contrast to the billions of pounds of public funding provided to bail out the errant banking system, not to mention a tsunami of corporate scandals and alleged tax avoidance by supposedly reputable UK companies and financial institutions. The economic reality was that by the mid-2010s, outside of London and the South-East, there was not a single region of Britain where had incomes returned to their pre-financial crisis levels (Haldane, 2016).

Growing inequality and deprivation alone however do not entirely explain the result of the 2016 EU referendum (Clarke et al., 2017). Immigrant populations, whether strongly present or not, were held partly to blame for the all-too-real, but much deeper-seated, economic difficulties experienced by locals. What these areas of economic decline have in common is the unequal burden of sacrifices endured by their populations, producing a shared political disconnect of "the left behind" (Hobolt, 2016). This has fueled deep resentments directed against immigrants and against those who have benefited from the economic reconfiguration produced by globalization and European integration that has disproportionately favored the metropolitan south and better-off parts of Britain (Goodwin and Heath, 2016; Haldane, 2016; Mason, 2016). Political scientists at the London School of Economics have suggested that it was *non*-EU migration that motivated those who voted in support of Brexit (Hix et al., 2017). It is into this political space that xenophobic currents that cut across party lines flowed, in much the same way as support for other far right and populist leaders has been generated across Europe. In the words of the report of the National Centre for Social Research: "The Leave victory was not about objective demographics alone. Matters of identity were equally, if not more strongly, associated with the Leave vote – particularly feelings of national identity and sense of change over time" (Swales, 2016: 2).

There is no doubt that debates on immigration, so bitterly expressed during the referendum campaign, will continue to be extremely important to trade union organizing and left groups of multiple positions across Europe and beyond for the foreseeable future. Arguably, it is an old question that has haunted labour movements and struggles in support of marginalized groups since their inception: what to do about "migrants", the stranger, the foreigner, and the vagrant? (Anderson, 2013). At a time when the (nation) state form is under threat but continues to be the form through which populations understand the distribution and accountability of political power, "migration" and "securitization" have become touchstone issues inextricably linked to questions of national



sovereignty. Where then does the European dimension of the social protection of labour rights and of the free movement of labour fit into this complex of issues?

## **The European Union, labour rights and contradictions of free movement**

Given the erosion of trade union power during the Thatcher years, prominent trade unionists in Britain argued that European Union legislation has provided tangible workers' rights and important employment protections (McClusky et al., 2016). They point to European directives on equal treatment, limitations on working time, the right to paid annual leave, maternity and paternity leave, protections for agency workers, employment protection in the event that companies acquire new owners, the creation of European company level works councils in large companies, health and safety provisions, and equality and anti-discrimination directives, all of which would be jeopardized by Brexit (Ford, 2016). Yet while case law in the European Court in all of these areas has produced notable advances, the reality remains that implementation at national level has often been weak, particularly in the newer EU member states (Woolfson, 2010). National regulations, for example, with regard to health and safety at work, where UK legislation preceded European directives, were in fact undermined by the European Union's drive towards "soft law" and a supporting de-regulatory impetus (Beck and Woolfson, 2000; Woolfson, 2006).

In campaigning during the EU referendum the question of workers' rights featured prominently. Assurances by leading Brexiteers that these rights would not be undermined by leaving the EU, were bolstered by the claim that in many areas UK workers' rights already exceeded those provided by the EU, a view contested by the pro-EU Trades Union Congress (TUC) (TUC, 2016). It is worth recalling that the position of the UK trade union movement on European Union membership was not always so adamantly pro-European. It was the appearance of Jacques Delors, President of the European Commission at the Trades Union Congress in September 1988 that marked a turning point in persuading the majority of union delegates to endorse a European future. The promise of a "Social Charter" that would enhance the rights of labour in difficult times of decline of political and industrial influence under a hostile Thatcher government was immensely appealing. Delors' intervention won over a previously reluctant organized labour in the UK to the prospect of single market consolidation, subsequently realized in 1992 by the Maastricht Treaty (Delors, 1988). Enthusiastic delegates greeted Delors' promises of support for collective bargaining and "social dialogue", and the vision of a "Social Europe". As the current general secretary of the TUC recalled: "As a performance, it was a tour de force. In fact, delegates were so impressed they burst into a rendition of 'Frere Jacques'. But the bargain that Delors promoted so persuasively – a Europe that balanced the interests of business and employers on the one hand, and workers and citizens on the other – has begun to unravel" (O'Grady, 2016).

In September 1988, in direct response to Delors' appearance at the TUC, a furious Prime Minister Margaret Thatcher enunciated her famous Eurosceptic "Bruges Speech" signalling the fundamental fissure in Conservative politics between pro- and anti-Europeans that was eventually to lead to the EU referendum. "We have not successfully rolled back the frontiers of the state in Britain", said Thatcher, "only to see them re-imposed at a European level with a European super-state exercising a new dominance from Brussels" (Thatcher, 1988). The irony of history was that it was not just Thatcher's implacable hostility to trade unions that was to limit the enhancement of UK labour rights by EU membership, but also subsequent policies of New Labour under Tony Blair's decade-long premiership from 1997 onwards (Smith, 2009). These policies retained much of the Thatcher's anti-union legislation and continued resistance to key European directives, such as that on limitations of working time. This resistance was orchestrated at European Union level by Peter Mandelson, Blair's loyal lieutenant and co-architect of New Labour policies. As EU Commissioner for Trade, Mandelson worked assiduously to neuter those directives that New Labour saw as hampering business competitiveness, while vigorously promoting a deregulatory agenda of so-called "Better Regulation" at European level.

Since the 1980s, pro-labour measures emblematic of the "Social Europe" promoted by Delors, in many instances, have been systematically abandoned, especially as austerity policies have been imposed throughout the EU (Deakin, 2016). Indeed, EU policy momentum in terms of advancing labour standards and collective bargaining rights has been almost entirely absent in recent years, especially since the global economic and financial crisis (Foster, 2016). So glaring has been the policy vacuum that a self-constituted "High Level Group", comprising among others former Commissioner of Employment, Social Affairs and Inclusion, László Andor, as well as his predecessor as Commissioner, Anna Diamantopoulou, along with a host of European notables, felt constrained in the Spring of 2015 to issue a report entitled "Unequal Europe" (Friends of Europe, 2015). This intervention warned "Social Europe has been slipping down the EU's policy agenda" (Friends of Europe, 2015: 11). Among key recommendations were the monitoring of "the implementation of the enforcement directive on the posting of worker" and the gradual introduction of "a guaranteed wage floor" (Friends of Europe, 2015: 32). The posting of workers employed by the home state provider but working in another member state under inferior wages and conditions has become a touchstone issue in the debate over just how far the European Union has progressed the rights of labour.

The more recent resurrection of a vision of "Social Europe" in the form of the "European Pillar of Social Rights" was an overdue policy response from the European Commission to the need to counter what was perceived as the danger of rising Eurosceptic populism in the aftermath of the crisis (European Commission, 2017c). While trailing a number of progressive proposals, the "twenty principles" enunciated in the European Pillar, promised little that would reverse trends towards erosion of labour standards through greater flexibilization of labour, aimed above all at ensuring adaptability of workers to the demands of a neoliberal labour market in the "new world



of work” (European Commission, 2017d). The proposals for “fair working conditions” remain non-binding recommendations from the European Commission to member states “setting the framework”, rather than mandating specific legislative enactments, notwithstanding the imperious use of “shall” throughout the documentation (Seikel, 2016; Stierle, 2017). If the European Commission’s contribution to guaranteeing labour standards in legislative terms has been diffident, the same cannot be said of the increasing “judicial activism” of the Court of Justice of the European Union, which in a series of rulings has undermined collective bargaining rights across the member states (Zhan, 2017: 102 ff). Hence the return of the contentious issue of free movement.

As Nathan Lillie and Anna Simola point out in a recent thoughtful contribution: “Unresolved contradictions between supernationally regulated free mobility and national sovereignty have come to the fore, precipitating crisis. This is a serious obstacle for the European project, and one which is fundamentally embedded in the design of the European integration” (Lille and Simola, 2016: 7). The strongly held view of the Conservative government since the resignation of former Prime Minister David Cameron on the day after the EU referendum result was announced, was that Brexit presupposed ending the mandatory requirement for the UK to accept free movement of persons from other member states, with the right to live and work in Britain. The government, in the words of his successor Theresa May, intended to “introduce control on free movement so that we have an end of free movement” (Theresa May, 12 October 2016). Control over borders: who enters, who leaves, who has the right to remain and under what conditions was asserted as the fundamental marker of national sovereignty.

Free movement of labour constitutes one of the four “foundational freedoms” of the European project to which every member state must subscribe. It was set out first in the treaty establishing the European Coal and Steel Community and given legal personality in the Free Movement Directive (The European Parliament and the Council of the European Union, 2004; See also Charter of Fundamental Rights of the European Union, Articles, 15, 45). In its original conception, it was a strategy to ensure that in former neighbouring warring countries (especially, France and Germany), labour in core industries would move freely across borders to where there were shortages. At the same time, international understanding would be created from below, as it were, ensuring continental peace where previously there had been enmity. Successive European treaties broadened the notion of free movement of workers (and self-employed) to include members of their families. The Maastricht Treaty of 1992 introduced the notion of “European citizen” with rights to live and work in any member state.

More importantly, Maastricht and the advent of the European monetary union represented the consolidation of neoliberalism as the main policy driver of the EU. Free movement was likewise *neoliberalised* as the European Union consolidated its economic dimension, privileging market forces over social considerations. The meaning of “free movement” transmogrified from that of realizing a greater collective good through transnational interchange, into the movement of the individual *homo economicus* (“mobility” in official EU discourse rather than “migration”). Individual free movers responding to economic incentives offered by the European single market

thereby would enable the maximization of their personal utilities rather than social solidarities across the European space. In this regard, the architects of European policy succeeded beyond their dreams as successive enlargements created new flows of labour from south to north and from east to west. The terms of accession to the EU for the post-communist states of Eastern Europe implied a one-sided bargain - free movement of capital and labour but between economies of massively different potential and development. The overall economic development of the semi-peripheral new members, especially in the aftermath of the collapse of the Soviet Union, was at a much lower level than that of the West. The former Eastern bloc provided, therefore, not only new markets for European capital but also a ready, flexible and well-educated labour force at the disposal of incoming capital. Eager to exercise new rights of mobility, this labour force could also be tapped into as a huge pool of labour for core member states to perform jobs at wages and under working conditions that, in the main, national workforces rejected.

Eastern enlargement created unprecedented problems for the orderly management of free movement, problems that the European Union has not been able to resolve. The term “social” or “wage dumping” has been used to refer to the undercutting of negotiated domestic wages and conditions by foreign EU labour (Bernaciak, 2012). The savings offered to employers utilizing this business model appear to be substantial. The scale of the problem may be underestimated however due to the absence of reliable data (European Parliament, 2016). In fact, the available evidence for downward wage and employment effects created by free movement of labour is mixed. Some of the existing studies suggest that if anything negative effects are small, although with regard to employment effects, they may be slightly greater in periods of economic downturn and impact more on low skilled occupations, especially given the already very flexible nature of the UK labour market (Devlin et al., 2014; Nickell and Saleheen, 2015; Portes, 2016; Rhus and Vargas-Silva, 2015). Such effects however are largely offset by the overall positive contribution to GDP growth stimulated by migrant labour, while migrants in general contribute more in taxes and social contributions than they receive in benefits (OECD, 2014). More important has been the social perception of the impacts of the presence of foreign labour on local labour markets (Wadsworth, 2015). Here, the politics of labour migration has fed popular prejudice and the insecurities born of austerity.

The perception of low wage competition from migrant labour has provided a lightning rod for hostility to immigration. As the first wave of “free movers” from the new accession states got underway in 2004, new industrial relations problems quickly emerged in three older member states, Ireland, Sweden and the UK. These states had opted not to impose so-called “transitional arrangements” designed to limit the inflow of labour onto their labour markets. The European Commission had offered only very modest projections of the numbers that could be expected to arrive from Eastern Europe to take advantage of wages that, in the case of the Baltic countries for example, were five times higher in Sweden than in Latvia (European Commission, 2006: 17). Each of the countries permitting free movement immediately following the Europe-

an enlargement was to experience bitter industrial disputes, most notably the Laval conflict arising from the presence of Latvian construction workers in the Sweden. The *Laval* ruling from the Court of Justice of the European Union and three associated rulings are widely seen as undermining one of the key pieces of protective legislation ensuring common labour standards for cross-border workers, the Posted Workers Directive (Woolfson and Sommers, 2005).

The European Court has thus since the mid-2000s intervened increasingly in national labour markets and industrial relations as exemplified in the *Laval* case. The European Commission, for its part, has been diffident towards the shrinking of trade union representation encouraged by restrictive national legislation, deeming these matters to be the province of the member states concerned. Simultaneously, as part of the European “Troika” (alongside the International Monetary Fund and the European Central Bank) the European Commission has encouraged “reform” of labour protections and dismantling of collective bargaining arrangements in the crisis-hit Eurozone countries of Europe’s southern and eastern periphery (Sommers and Woolfson, 2014). Even EU-led attempts to tackle the most gross forms of labour exploitation, for example of vulnerable seasonal migrants, have proved legislatively feeble in the main, and increasingly conflicted by “securitization” concerns (Fudge and Herzfeld Olsson, 2014). Progress towards a common European strategy on tackling undeclared work in the grey or informal economy likewise is extremely slow. These failures alone, not to mention the depredations of the Troika in destroying the social fabric of Greece, merit in themselves a comprehensive rejection of EU claims to a viable social agenda that protects the rights of labour. But it is the inability to provide the protections against cross-border exploitation of migrant EU workers that has proved the greatest failure. A new Enforcement Directive on posting notwithstanding, even in well-regulated economies such as Sweden, exploitation of EU migrant labour continues unabated (Neergaard and Woolfson, 2017).

Although technically the Laval dispute arose from a “freedom of services” issue rather than from “freedom of movement” (since the Latvian workforce remained in the employ of the “home state” service provider), they were being paid substantially under the collectively bargained going rate for construction workers in the Stockholm region. The legal fiction that as “posted workers” the Latvians did not enter onto the Swedish labour market was belied by the reality that workers had crossed borders to work under inferior pay and conditions in which trade unions previously had a preeminent role in regulating wages and conditions. The reform of the Posted Workers Directive to ensure equal pay for domestic and mobile workers has become an issue of policy concern both at Commission and member state level. French President Emmanuel Macron has been anxious to defuse resurgent xenophobia driven by the National Front, while concerns over “wage dumping” have also been voiced by Germany, Belgium, Netherlands and Austria over the manner in which the directive is working, despite the introduction of a so-called Enforcement Directive (Directive 2014/67/EU) (*The Financial Times*, 7 March 2016). The proposal to create a European Labour Agency suggests that the Commission also recognizes that the perception that posted workers undercut local

wage rates is a crucial issue in the eyes of European voters that can potentially destabilize the governments of older member states. How the member states from Eastern Europe will react to the proposal for “the same pay at the same place”, in other words, equal pay in whichever member state a posted worker is located, remains to be seen. On the basis of their previous hostile responses to proposed reform of the posting directive, the outlook is not promising (Politico, 5 October 2016). A revised Posted Workers Bill will be considered in the autumn of 2017 at a meeting of EU employment ministers in Tallinn, Estonia. Issues surrounding posting have however exposed a fault line between older and newer member states that is creating centrifugal tensions within the European Union (Vaccarino and Darvas, 2016).

The unpalatable fact remains that many EU workers have been recruited into poorly regulated areas of the UK labour market where their adaptability and willingness to work hard for comparatively low wages without complaining are seen as very attractive for employers, and where the effective enforcement of labour standards has been patchy (Migration Advisory Committee, 2014). In such sectors where it has been difficult for employers to find local labour forces at the low wages on offer European workers, mainly from the East have formed significant proportions of the total labour force (in accommodation and food services 14.2%; manufacturing 11.5%; transport and storage 10.5%; administration and support 9.3%; construction 8.7%; agriculture 7.4%) (Hawkins, 2017). Trade unions throughout Western Europe have found it difficult, although not impossible, to organize these new migrant workforces, in many cases comprising short-term and temporary-stay workers (Marino, Penninx and Roosblad, 2017). So far as workers from newer EU member states are concerned, often with little experience of trade unionism and residual suspicions of such organizations due to home-country association of trade unions with the former Soviet era, obstacles in organizing such workforces are compounded (Fitzgerald and Hardy, 2010). The European Commission, by insisting on free movement of labour as integral to the European project acquired the shock troop formations to destabilize national collective bargaining arrangements in the older member states. Paradoxically, it succeeded only too well not only in mobilizing labour resources, but in creating in Brexit possibly the first domino in the eventual process of European *dis*-integration. As the contemporary politics of Brexit illustrate, free movement has presented a perfect populist opportunity for the current Conservative government to turn the question of intra-EU migration to its political advantage.

## Theresa May’s “quiet revolution”

As Prime Minister David Cameron ‘fell upon his sword’, resigning from office following the EU referendum result, the Conservative party for a brief period, dissolved into open warring factions in a leadership contest between the ‘Leave’ and ‘Remain’ campaigners. This debacle was much enlivened by betrayals among the ‘Leave’ leadership that saw Boris Johnson’s candidature for office snatched from him at the last moment by an ambitious rival Brexiteer, Michael Gove, only for Gove in turn to be rejected

by Conservative MPs in a leadership contest. Theresa May, even though nominally a ‘Remain’ supporter, was to emerge as the victor in the summer of 2016 fully committed to ensuring that the “expressed will of the electorate be respected”, and in her own oft-repeated mantra, “Brexit means Brexit”.

May disingenuously attempted to capture a deep-seated anger, the objective roots of which lie in the social resentments created by the crisis and austerity among wide sections of the population (*The Guardian*, 14 July 2016). In speaking for “the nation”, May sought to infuse the notion of “social justice”, a traditional left cause, with a content that is both anti-Europe and anti-immigrant. In so doing, the politics of social justice and the politics of identity have been deliberately conflated. Achieving this ideological shift, quite distinct from the politics of her predecessor, has required the elaboration of a new narrative whereby the Conservative government champions the cause of “the ordinary working-class family” for whom “life is much harder than many people in Westminster realize” and who only “just about manage” (the so-called JAMS) (*The Spectator*, 13 July 2016). This populist political vocabulary added a new populist depth to what May termed a “quiet revolution” in British politics represented by the vote for Brexit.

In her own words, the vote said May, “was not just about the EU but was about something broader – something that the European Union had come to represent. It was about a sense – deep, profound and let’s face it often justified – that many people have today that the world works well for a privileged few, but not for them” (*The Independent*, 5 October 2016). Among the “deep roots” of this “revolution”, May went on to acknowledge, “it wasn’t the wealthy who made the biggest sacrifices after the financial crash, but ordinary, working class families. And if you’re one of those people who lost their job, who stayed in work but on reduced hours, took a pay cut as household bills rocketed, or - and I know a lot of people don’t like to admit this - someone who finds themselves out of work or on lower wages *because of low-skilled immigration*, life simply doesn’t seem fair” (*The Independent*, 5 October 2016, emphasis added).

The new political lexicon of “fairness” presented the paradoxical picture of a Conservative government repeatedly proffering assurances that workers’ rights were of primary concern. Thus, claiming that British workers’ rights would be protected after leaving the European Union, David Davis, the cabinet minister responsible for Brexit stated at the Conservative Party conference in October 2016: “To those who are trying to frighten British workers, saying ‘When we leave, employment rights will be eroded’, I say firmly and unequivocally ‘no they won’t’. Britain already goes beyond EU law in many areas – and we give this guarantee: this Conservative government will not roll back those rights in the workplace” (*The Spectator*, 2 October 2016). Assurances of preserving workers’ rights bestowed as a result of EU membership also merited a separate chapter of the Brexit *White Paper* of February 2017, laying out the legislative basis for Britain’s withdrawal from the EU (HM Government, 2017a).

The Conservative Party election manifesto of 2017 took the repositioning of Conservative politics towards “ordinary working people” a step further (Conservative Party, 2017). In a rhetorical break with the ideological beliefs of her predecessors Mar-

garet Thatcher and David Cameron, May rejected what was termed, the “untrammelled free market” and the “cult of selfish individualism”, promising that her “mainstream” government would act as “a force for good...at the service of this country’s working people” (Conservative Party, 2017: 7-9, 38). The Conservative manifesto’s “Great Meritocracy” promised “a fairer Britain that works for everyone, not just a privileged few” (Conservative Party, 2017: 47, 5). The future Conservative government would provide, *inter alia*, an increase in the National Living Wage to 60 percent of median earnings by 2020, provide “proper rights and protections at work” and employee representation on company boards as well as shareholder scrutiny of executive pay, as part of wider reforms to corporate governance. These were seemingly radical proposals from a party that had traditionally strongly resisted such policies (Conservative Party, 2017: 18; Shaheen, 2017).

Nevertheless, it must be conceded that May also moved to address the politically sensitive question of exploited workers in the so-called “gig economy” spawned by the growth of internet shopping for goods and services, and those paid below the national minimum wage or the national living wage, estimated by the Office for National Statistics to number over 360,000 (ONS, 2016b). The erosion of full-time standard employment since the crisis had left many in the labour force in increasingly precarious employment (Department for Business, Energy & Industrial Strategy, 2016; 2017). Such workers, for whom flexible working arrangements provide the only significant upside in a labour market characterized by growing insecurity are often forced into a contractual relation of “self-employed” and paid on a “piece-work” basis rather than as direct employees in possession of full employment rights. This allows companies to minimize statutory obligations to provide paid holidays, sick pay, parental leave or pension contributions (*The Guardian*, 18 July 2016). Widely publicized scandals involving leading UK High Street names, such as Sports Direct, employing workers on so-called “zero hours contracts, the practice of awarding employment contracts lacking any guarantee of fixed hours of employment and placing workers “on-call” at the employer’s disposal, added to public concerns and resulted in a UK parliamentary inquiry (House of Commons, 2016). The prevalence of zero-hours contracts had grown rapidly in the aftermath of the crisis, up from 143,000 in 2008 to an estimated 900,000 plus employees or 2.8 percent of the workforce in 2015 (GOV.UK, 2016). So too, those companies at the forefront of the gig economy such as Uber, Deliveroo, Asos, Hermes and Addison Lee increasingly saw legal claims for standard employment rights. Vulnerable and ethnically diverse workforces were demanding and winning enhanced employment rights as employees rather than self-employed (Woodcock, 2016). The May government duly established a high-level independent review of contemporary employment practices to make recommendations, with an election manifesto promise to “make sure that people working in the ‘gig’ economy are properly protected” (Conservative Manifesto, 2017: 16).

What was new has been the perceived need to foreground the enforcement and maintenance of fair labour standards as part of building a populist Brexit “(m)aking the market work for working people” (*The Independent*, 5 October 2016). The disingenuous solidarity with the most exploited or those “just about managing” implied its own



closely drawn lines of exclusion however. In this narrative, special importance was given to the ongoing targeting of so-called “illegal” or undocumented migrants who by definition were not part of “the nation”. Irregular migration was an issue that May as Home Secretary under the previous administration pursued with unremitting even obsessive intensity. May’s period as Home Secretary for six years under the coalition government saw UK Immigration Department offices in Glasgow plastered with wall posters depicting a homeless migrant sleeping rough, and asking: “Is life here hard? Going home is simple”, while waiting room chairs displayed the inviting message “Ask about going home” and mock-up aircraft dangled from the ceiling offering “help” with making necessary arrangements. The notorious white vans that circulated in some areas of England warning, “Go home or face arrest”, and displaying a text number inviting the public to report illegal immigrants, revealed a long-standing obsession with migration control. This easily conflated EU “free movers” in the context of Brexit with undocumented and irregular migrants, as one threatening mass of “foreigners”, setting the tone of much official thinking.

As former Home Secretary, May could claim to her credit the introduction of the Modern Slavery Act 2015, and as Prime Minister, the appointment of an Anti-Slavery Commissioner and a dedicated task force on combatting modern slavery. Welcome as these steps undoubtedly were, in the words of the Director of Anti-Slavery International, there was “a risk that the current anti-immigration rhetoric and the Immigration Act 2016, with its introduction of an ‘illegal working’ offence, will undermine the intent of the Modern Slavery Act” (McQuade, 2016). In particular, traffickers can exploit the irregular migration status of their victims in order to render them powerless by threatening denunciation to the authorities and deportation. Now, in the new rhetoric of “fairness” such persons were identified as among the chief culprits for the low pay and poor working conditions of native British workers. The appointment of a Director of Labour Market Enforcement, created under the Immigration Act of 2016, was intended to make it “harder for people to live and work illegally in the UK” by criminalizing such workers, and imposing even tougher penalties on employers who employed undocumented workers, with penalties including potential custodial sentences of up to two years (Fudge, 2016).

Thus, the targeting of foreign and undocumented labour had become part of on-going Conservative strategy to reap political capital from the xenophobic momentum unleashed by the EU referendum vote. May’s Conservative government had nimbly captured the UK Independence Party’s anti-immigrant support base in a shift to the right. In similar vein, Amber Rudd, the newly-appointed Home Secretary in the May Conservative government, has proposed requiring all British firms to list their non-UK citizen employees in an effort to encourage employers to recruit workforces locally rather from abroad. In mounting this proposal, Rudd explicitly disavowed any charge of racism (BBC News, 5 October 2016). However, this initiative was immediately seen as “divisive” from within her own party, “unhelpful” in the eyes of employers and their representatives seeking to recruit labour from abroad, as well as “xenophobic” on the part of trade unions and progressive opinion-formers (*The Scotsman*, 13 October 2016).

While the Conservatives subsequently rowed back from the original proposal, it was clear that the intention remained to compile such lists in the future.

The problem persisted that if free movement were to be ended, a rational migration policy that included a labour market test of where genuine labour shortages existed that could not be filled by domestic recruits, must somehow be devised. For employers in specific labour-intensive sectors relying on migrant labour such as agriculture and horticulture (but also food-manufacture, meat-processing, restaurants, warehousing) who built their current business models on the exploitation of cheap and plentiful low-wage migrant labour, the prospect of Brexit brought a new dilemma (AHDB, 2016). Either they would need to invest in automation technologies that replaced such human labour and the 3D (dirty, dangerous and demeaning) jobs they performed, or, in the absence of a domestic labour force, they would need to consider new sources of recruitment possibly from outside the EU, not something the Conservative government was likely to take kindly to. The latter “low road” route would be the most attractive in cost terms, since the need for a flexible labour force to meet the demands of just-in-time delivery to large supermarket chains, for example for perishable fruit and vegetables, remained.

Senior government ministers recognized the difficulties that an abrupt end to free movement of labour would create, and have called for some form of “transitional arrangements” to be put in place. As David Davis, the Minister for Exiting the EU, declared during a visit to Estonia in Spring 2017, “in the hospitality sector, hotels and restaurants, in the social-care sector, working in agriculture, it will take time - it will be years and years before we get British citizens to do those jobs” (Bloomberg, 20 February 2017). Suggesting that the door would not “suddenly shut” would not please the most ardent supporters of a “hard-Brexit”, but clearly an immediate end to low-skilled migration would create significant problems both in industry and in the public sector, a problem with the May government has been slow to recognise. Davis’ remarks however left open an unspoken and troubling question: What precisely was it that the Conservative government intended to elaborate by way of policies over the coming years that would persuade native workers “to do those jobs” at the kind of rates of pay and under the conditions likely to be on offer in these sectors?

The substance of a post-Brexit labour migration policy would only be published at a later date, having been postponed until the late autumn of 2017 to enable closer consultation with business interests concerning their staffing needs. A leaked internal Home Office policy paper revealed that policy-makers were drafting proposals for government that included limitations on low-skilled labour migrants from Europe (read mainly ‘Eastern Europe’) to a two-year stay in Britain, while highly-skilled migrants would be limited to a period of residence of three to five years, besides a host of other restrictive conditions (See The Border, Immigration and Citizenship System after the UK leaves the European Union, *The Guardian*, 5 September 2017). The Home Office paper was redolent with phrases reminiscent of the kind of anti-immigrant hostility that had characterized May’s previous tenure as Home Secretary.

An intervention from the “Tony Blair Institute for Global Change” attempting to salvage UK membership of the single market in a softer Brexit, did little more than



echo the more hostile posture of the leaked Home Office proposals, suggesting *inter alia* that EU migrants' access to the labour market should be conditional on a job offer, while access to social benefits and the health service could be restricted, as also the ability to sign rental agreements, and open bank accounts (Redgrave, 2017: 26-27). In smoother but equally insidious tones, Blair's "think tank" advocated "taking back control over immigration" in order to address "anxieties" and "worries" created by immigration, offering ritual *mea culpas* for permitting free movement of labour from Eastern Europe in 2004 rather than seeking a seven-year transitional period of adjustment (Blair, 2017). Singularly, absent was any recognition of the damage to the fabric of society created by economic austerity in generating the "grievances" that "gave rise" to Brexit. Whatever the model of post-Brexit migration policy finally adopted, May-ite or Blairite, the threat of new divisions in the workforce based on nationality and immigration status would remain. State-sanctioned legitimization of the application of differential standards of labour protection as between UK and EU citizens, would likely lead to an institutionalized tier of "second-class" vulnerable migrant workers whose rights to live and work in Britain on terms equal to those of native workers have been significantly eroded. May's rigid, even "robotic" advocacy of a hard-Brexit seemed driven by migration concerns. Her lack of more nuanced and reflexive responses was shortly to be demonstrated as a general election campaign brought new uncertainties to the Brexit process, not least in delaying the start of formal negotiations with the EU over Britain's terms of exit.

## **The 2017 general election**

The general election of June 2017 was the culmination to date of the unresolved crisis over Britain's European adventure that has divided the ranks of both parties since Britain joined the European Economic Community in 1973. These conflicts have entangled both the Conservative and Labour parties for decades but now appear in their most problematical and volatile form in most recent times. May called the election for June 2017 to strengthen her bargaining hand given prospects of tough negotiations with the Commission on the terms of Britain's exit, but also with an eye to difficulties nearer to home, including dissent over Brexit in her own party, and in the House of Lords where the Conservatives lacked a majority. Above all, however, it was the internal divisions in the Labour Party that convinced May that a snap general election would be politically opportune, despite having repeatedly ruled out calling a new election, until required to do so by law sometime before 2020 (*The Guardian*, 19 April 2017).

The Labour Party was deemed to be in terminal crisis, occasioned by the surprise election in September 2015 of Jeremy Corbyn, an avowed left-winger to the leadership of the parliamentary Labour Party and an outsider who had never held government office. New Labour, under Tony Blair's premiership from 1997 onwards, in an effort to "modernize" the party and appeal to the presumed center-ground within the British electorate, had distanced itself from its most loyal supporters in the organized labour and trade union movement. While in opposition during the years of the Conserva-

tive-led coalition government between 2010 and 2015, the Labour Party had done nothing to distance itself from these policies. Corbyn's election to the party leadership signalled a clear break with New Labourism. However, the party had been consumed with internal conflict, with Corbyn rejected as leader by the majority of the party's MPs. This resulted in two separate contests over his leadership. The first was convincingly defeated in an open ballot that included not just MPs, but crucially, ordinary party members. Corbyn and his allies set Labour on a new path towards the left, rejecting the managed pro-austerity politics of Blairite New Labour. In Parliament, Corbyn's election to the leadership resulted the parliamentary party riven with internal conflict and viewed in the liberal-leaning mainstream media as seemingly incapable of effectively challenging the government's hard-Brexit policies as the official parliamentary opposition (*New Statesman*, 3 March 2017).

In a passionate intervention, former Prime Minister Tony Blair's call to the British people to "rise up" against Brexit, together with the assiduous "daily" undermining of Corbyn's authority by the co-architect of New Labourism, "Lord" Peter Mandelson, added to these internal party divisions (BBC News, 7 February 2017; *The Guardian*, 21 February 2017). Then in late June 2016, Corbyn was faced with open revolt as over sixty MPs, spokespersons of the Labour opposition front-bench "shadow cabinet" team, resigned *en masse* over the space of a few days. A "no-confidence motion" supported by 172 Labour MPs attacked Corbyn's seemingly "lackluster performance" on behalf of the Remain campaign during the EU referendum. Corbyn with only 40 MPs opposing the "no confidence" motion remained defiant. In the face of the attempted "coup", he refused to "betray" the mass of Labour Party members who had voted for him in the first election for leadership, pointing out that the vote by MPs had "no constitutional legitimacy". It was the trigger for a second leadership contest in which Corbyn's position as party leader was reconfirmed by 61.8 percent of Labour Party members as against his nearest rival's 38.2 percent, an even wider margin of victory than in the initial leadership ballot (The Labour Party, 2016).

It seemed inconceivable that "socialist" Corbyn could be a credible leader or present any kind of electoral challenge to May's government. The Conservative party's lead in the opinion polls over Labour of 20 percentage points, and May's even larger personal ratings advantage over Corbyn, at one stage of 52 percentage points, were calculated to enhance the Conservative parliamentary working majority of seventeen MPs in a landslide general election victory. With the Prime Minister leading "Team May", her campaign mantra promised "strong and stable" leadership capable of achieving the "best Brexit deal for Britain" (Theresa May, 2 May 2017). This slogan, repeated *ad nauseam* to meetings comprising carefully selected groups of loyal Conservative supporters well-shielded from unscripted encounters with the general public. May had learnt from an unfortunate live encounter on BBC TV's *Question Time* with an NHS nurse, demanding to know why her income had not risen for the last eight years, a result of public sector wage capping (BBC *Question Time*, 2 June 2017).

The Conservative election manifesto duly reiterated May's stance of hard-Brexit, reiterating "no deal is better than a bad deal for the UK" and entailing, if necessary,

forfeiting UK access to the European single market and customs union in order to regain control over immigration from the EU (Conservative Party, 2017: 35). For May, prioritizing the ending of free movement of EU citizens to Britain and the terminating the legal supremacy of the European Court, were overriding objectives, even at the cost of preserving tariff-free trade with Europe. This was to be advanced as the UK's "non-negotiable" position in the Brexit negotiations. From the European Commission the message was clear. There were its own 'red lines' which could not be crossed: without free movement there could be no UK access to the European single market. Adding to the tensions between the UK and the European Commission over free movement, was the continuing refusal of May unconditionally to guarantee the rights of the 3.2 million EU citizens already resident in the UK without reciprocal assurances concerning the rights of British expatriates resident in EU countries. Government proposals offering "settled status" to EU nationals in the UK finally emerged in June 2017, to be greeted with less than enthusiasm in Europe (HM Government, 2017b; BBC News, 10 July 2017). Equally contentious was the question of the size of the UK's "divorce bill", the amount that the UK was calculated as being liable for on the basis of estimated commitments to future contributions to the EU budget. This figure floated by the European Commission amounted to between 40 and 100 billion euros, a sum that the UK government claimed was excessive and took no account of previous contributions. Not least in contention, was the question of the nature of the future UK/EU land border between Northern Ireland (part of the UK) and Eire or the Republic of Ireland (an EU member state). The Republic of Ireland was particularly concerned by the possibility of restrictions on free movement and the erection of customs posts on the border with the north as impediments to trade.

The European Commission's negotiating priorities were set as the strictly necessary prerequisites in order for the Brexit negotiations to advance in a process of "orderly withdrawal" and as precondition before discussions on a future trade deal between the UK and the EU could commence (European Commission, 2017a: 2). The Commission's "negotiating directives" envisaged the discussions on a future trading relationship as having a "sequential" rather than "parallel" nature, required the UK to demonstrate "sufficient progress" on these matters before trade talks could begin (European Commission, 2017b). Given these divergent agendas, it seemed that the Brexit negotiations might break down before they had properly commenced (*The Independent*, 4 May 2017). With hard-Brexiteer Boris Johnson, now appointed as Foreign Secretary, suggesting the EU could "go whistle" for its 100 billion euros, time was not on the side of the UK to negotiate a trade deal. In the words of the Commission's chief negotiator, Michel Barnier, "I am not hearing any whistling, just a clock ticking" (*The Guardian*, 12 July 2017).

As the June 2017 general election campaign progressed, however, it became clear that Brexit and the terms of negotiation with the European Commission were not uppermost in the minds of the electorate. Domestic issues came increasingly to the fore. Many older Conservative voters were alienated by this ill-judged proposal in the Conservative party's election manifesto to levy unlimited charges for the costs of

home-based care for the elderly to be reclaimed after death against the value of household property, with the exception of the last one hundred thousand pounds. The hostile reaction to this so-called “dementia tax” forced May to make a hurried and public U-turn, promising a future “cap” on charges to homeowners. Further proposed policy measures added to the lukewarm reception of the Conservative manifesto: a “means-test” for winter fuel payments to pensioners, weakening the “triple lock” indexation of 2.5 percent per annum in state pensions, abolishing free school lunches for infants, a commitment to reintroduce selective schooling, the re-introduction of fox-hunting, and confusion over whether or not the Conservatives in office would increase income tax. These ill-starred proposals were devised by a close-knit duo of key trusted advisors who had accompanied May since her days as Home Secretary, insulating her from views of those in her own Cabinet who were not consulted on the contents of the manifesto. These errors of political judgement were to prove fatal to May’s aspiration to wipe out Labour for a generation to come.

The Labour Party election manifesto was strongly anti-austerity in its thrust and a significant departure from the previous consensus-seeking politics of New Labour and the middle ground (Labour Party, 2017). The manifesto, in both prematurely “leaked” and final costed form, offered a raft of policies for progressive re-nationalization of rail, water, energy and postal services, greater state regulation, ending student tuition fees, more regional devolution, redistributive taxation of the rich and a levy on excessive executive pay, a public sector investment bank that could use pension savings for long-term investment, restoring the ability of local governments to run their own services and the use of public procurement strategically to ensure support for industrial development, the re-establishment of comprehensive sectoral bargaining – also using state procurement as a bargaining tool to ensure that the collective power of the trade union movement could be exercised economically at industry level. Such policies of public procurement, public ownership and strategic public investment would be, to a greater or lesser degree, incompatible with the EU’s competition rules that disallow state aid, state “monopolies” and interference in the labour market, while the promotion of sectoral collective bargaining is contrary to recent rulings of the European Court (Foster, 2017). In short, Labour presented a programme that included a different approach to state aid, state ownership, public procurement and managed trade that would be deemed illegal under European law and European single market rules (Gordon and White, 2017).

The Manifesto commitments to security and equality at work promised to enhance labour standards measurably. These proposals included equal rights from day one for employees, whether part-time or full-time, temporary or permanent status. Making “zero-hours contracts” illegal was a second area of commitment. Again, Labour would clamp down on agencies and employers resorting to the imposition of “bogus” or false self-employed status to avoid social insurance liabilities. Fees for pursuing employment tribunal claims introduced in 2013, ranging between £390 and £1,200 would be removed, thereby allowing legal redress for workplace grievances such as unfair dismissal, equal pay claims or sex discrimination, especially difficult to afford for lower

paid workers. The introduction of such fees had resulted in a drop of up to 70 percent in the number of claims. In the event, just over a month later, in late July 2017, the UK Supreme Court ruled that the employment tribunal fees regime was unlawful under both domestic and EU law, because it had the effect of preventing access to justice. The Supreme Court also indicated that the regime, which charged fees at a higher rate for those claiming discrimination, was indirectly sex discriminatory and that those who had been charged fees previously should be reimbursed (*The Independent*, 26 July 2017). For once, the judiciary appeared to be on the side of working people but much in rebuilding the architecture of trade union rights would need to be addressed by Labour. Thus, were a Labour government were to be elected the manifesto promised trade union rights would be enhanced by reversing the restrictive measures imposed by the Trade Union Act 2016 of the previous Conservative coalition administration (Ford and Novitz, 2016). Millions of public sector workers whose annual pay increases had been frozen altogether or capped at 1 percent since 2011 also had seen their fundamental right to take part in industrial action restricted. Under the Conservative's Trade Union Act, a minimum of 50 percent of those entitled to vote on any strike were required take part in the ballot. In "important public services" at least 40 percent of those entitled had to vote in support of the action, while abstentions would be counted as "no" votes (Smith, 2015: 357; Labour Party, 2017: 47-48). Labour's proposed measures to re-balance trade union law towards the rights of employees to collective representation formed an important element of the party's manifesto.

The Labour manifesto addressed these issues while at the same time conceding that freedom of movement would end with Brexit, while rejecting limiting immigration to specific target numbers, in favour of unspecified "fair rules and reasonable management" (Labour Party, 2017: 28). Promising neither to scapegoat migrants nor blame them for economic failures, Labour guaranteed that all existing non-British nationals would have the right to remain after Brexit. The new policy for immigration would not "discriminate between people of different races or creeds" and would be... "transparent and fair to everybody" (Labour Party, 2017: 28). Not least, the new policy would involve "working with businesses, trade unions, devolved governments and others to identify specific labour and skill shortages" in order "to institute a new system ... based on our economic needs, balancing controls and existing entitlements" (Labour Party, 2017: 28). It continued, we will "take decisive actions to end the exploitation of migrant labour undercutting workers' pay and conditions", "crack down on unscrupulous employers", "stop overseas-only recruitment practices, strengthen safety-at-work inspections and increase prosecutions of employers evading the minimum wage". Most importantly, Labour's policy on immigration explicitly rejected the false rationale that cuts in public services are a consequence of pressures created by migrant labour. Rather, it promised investment to "ease the underlying pressures in any areas struggling to cope with seven years of austerity" rather than "pretend the cuts are a consequence of immigration" (Labour Party, 2017: 29).

Labour's campaigning emphasis on anti-austerity policies engaged with voter concerns over the future of the National Health Service, the economy, housing, and jobs.

It was these issues rather than a primary focus on Brexit and immigration that resonated with the electorate, turning the general election into an increasingly close contest. Corbyn's lifetime experience of campaigning and communicating with ordinary voters proved an enormous asset as he addressed mass rallies of supporters across the country, attended by hundreds and sometimes thousands of supporters. The by-no-means supportive *Guardian* newspaper's Wales correspondent wrote of one Corbyn rally: "Corbyn's crowd was so big in Colwyn Bay that nobody could believe that many people lived in Colwyn Bay" (*The Guardian*, 9 June 2017). The manifesto as a whole had significant popular appeal, confounding internal critics in the party and leading newspapers which accused Corbyn of promoting a socialist "far-left" agenda that would "take Britain back to the 1970s" (ComRes, 2017; Business Insider UK, 12 May 2017).

Inspired by Corbyn's left-wing agenda and attracted by his advocacy of an anti-austerity programme, tens of thousands of new members had joined the Labour Party. With some 500,000 members, this had transformed Labour into the largest mass political organization in its history. Huge public rallies across Britain energized these new Labour supporters, especially among young people, leading savvy political observers to speak of the birth of a new social movement, appropriately named Momentum (Patrick Win-tour, *The Guardian*, 5 October 2016). This "left turn" at the base of the Labour Party represented an important impetus towards re-positioning Labour as offering a credible political alternative to Conservative austerity policies. With only two weeks before the final ballot, the previously unassailable Conservative lead in the polls had declined to a mere 5 percentage points, while May's personal approval rating advantage over Corbyn had shrunk to a still substantial 17 percentage points (*The Independent*, 26 May 2017).

Then, just as Labour appeared to have decisively shifted the election debate away from Brexit towards austerity policies, a terrorist bomb exploded in Manchester at a pop concert venue leaving twenty-two persons dead and scores injured. A second terrorist attack, in central London six days before the election, resulted in a further eight fatalities and dozens of injuries. These tragic events resulting in a temporary halt to the election campaign enabled May to refocus the election on security issues. In the aftermath of the Manchester attack, Corbyn pointed to the link between UK foreign policy interventions and terrorist attacks at home, and not least, the UK's support for repressive regimes in the Middle East that supported such activities. In the wake of the London attack the Labour leader tellingly emphasized the effects of austerity-driven cuts to policing numbers during the six years that Theresa May was serving Home Secretary which Labour, if elected, would reverse. Corbyn's own long-standing opposition to UK support for military interventions in Iraq, Afghanistan and elsewhere were matters of public record. If Corbyn could be portrayed as "soft on terrorism", the Conservatives seemed set to recover the electoral ground lost to Labour over the previous phase of the campaign (*The Guardian*, 26 May 2017).

In the final hours of the campaign Theresa May proclaimed "enough is enough" and promised tough new anti-terror legislation. An electoral contest that had begun over ending "freedom of movement" slipped into one of ending the "freedom and movement" of terrorist suspects. The popular press duly denounced "Labour's apologists for



terror” detailing solidarity support meetings attended by Corbyn with the Palestinian resistance and Irish republican leaders as far back as the 1970s in relentless column inch after column inch over fourteen pages (*MailOnline*, 2017). It seemed despite the closing gap in the opinion polls that Labour’s electoral humiliation was still almost certain, with only the scale of defeat in contention. The roar of anti-Corbyn attacks which included almost all sections of the British press, with the honourable exception of the Communist *Morning Star*, reached fever pitch on the eve of election. As the campaign reached its climax, it was difficult to discern what the election was about – Brexit, terrorism, or austerity. The election outcome would provide an unexpected answer.

## **Beyond the 2017 general election**

The result of the election of 8 June 2017 was historically momentous. It saw Labour secure 40 percent of the popular vote compared to the Conservative share of 42.4 percent, a result that was as remarkable as it was unexpected. The polls had suggested at one point that May could increase the number of Conservative MPs by over sixty, with Labour declining to 164 MPs, barely half the total of 326 MPs required to form an overall majority government. In terms of parliamentary seats gained, the final Conservative tally reached 318 MPs, wiping out May’s previous working majority of seventeen and resulting in a ‘hung parliament’. The Labour Party, defying all expectations, increased its representation by a staggering 30 MPs to 262 MPs, not sufficient to form a majority government in its own right, but more than enough to reinstate Labour as the largest opposition party.

Had it not been for a Conservative Party revival in Scotland, where the party won thirteen seats in total, including twelve from the independence-supporting Scottish National Party (SNP), the outcome would have been even more damaging for the Conservative government (BBC News, 9 June 2017). In contrast to voters in England, in the EU referendum of 2016, Scottish voters had supported Remain by a majority of nearly two to one (62 percent as against 38 percent) (BBC News, 27 June 2016). This provided the SNP with an opportunity to contest the legitimacy of the Conservative government’s hard-Brexit agenda and to argue that Scotland’s interest lay in maintaining a trading relationship with Europe, based on the single market and open borders. However, the UK general election of 2017 saw the SNP lose 21 of its 56 Westminster MPs (out of the total of 59 MPs elected for Scotland as a whole). With more than a quarter of their vote share lost, the proposal of SNP leader and ‘First Minister’ Nicola Sturgeon to hold a second independence referendum in the period before Brexit negotiations concluded was abandoned. The election still left the SNP as the third largest party in the UK Parliament, with the likelihood of some eventual say in endorsing the final Brexit deal.

Theresa May’s spectacularly failed general election gamble had torpedoed her parliamentary majority, such that her political demise seemed all but inevitable, halted only by the fear of further Conservative internal party chaos, more unmanageable divisions over Europe and not least, the prospect of a Labour victory should another

general election be called. Her future in the balance, a contrite and chastened Prime Minister apologized to the party hierarchy for “getting us into this mess”, sacked her two closest advisors, and promised a more inclusive style of government (BBC News, 12 June 2017). With May’s authority undermined, not least in the eyes of the European Commission, the chorus of demands from the liberal press and from within the Conservative Party (led by her own Chancellor of the Exchequer, Philip Hammond) grew louder that she soften her hard-Brexit stance. This would entail modifying her abiding preoccupation with controlling immigration to prioritize instead economic questions (*The Independent*, 19 June 2017; Philip Hammond, 20 June 2017).

It was clear from the traditional post-election “Queen’s Speech” delivered by the monarch to the Parliament (although written by the government outlining its proposed legislative agenda) that Brexit would require a slew of new legal enactments over the coming two years. Besides a Great Repeal Bill, now known as the European Union (Withdrawal) Bill, formally transferring existing EU law into UK law, there would be a succession of detailed enactments in order to repatriate control over key areas of policy such as immigration, trade policy, customs tariffs, agriculture and fisheries (Queen’s Speech, 2017). Once again, there was the promise to protect workers’ rights, but this time without further detailed elaboration. There was also a nod towards greater devolution of powers repatriated from Brussels for Scotland and Wales. However, the threadbare nature of the policy agenda advanced underlined just how weakened the Conservative government had become.

Faced with the absence of an overall majority, May entered into a voting arrangement, relying on the votes of thirteen Northern Irish MPs from Protestant sectarian Democratic Unionist Party (DUP). This was not a formal coalition as such, but an agreement to support the government on a vote-by-vote (a so-called “confidence and supply”) basis. Even within the Conservative Party there was unease over government reliance on the most socially conservative (opposing same sex-marriage and abortion) and sectarian elements in Northern Ireland’s politics (Miller and Lewis, 2017). The elevated importance of the DUP as “kingmakers”, bolstering May’s minority government, potentially undermined the already fragile Northern Irish “Good Friday Agreement” on power-sharing with the nationalist community. This agreement had ended years of sectarian strife and inter-communal violence during the decades of “The Troubles” from the 1960s onwards. Yet even before the UK general election, the power-sharing agreement in Northern Ireland had broken down over an alleged corruption scandal involving the DUP, raising again the prospect of direct rule over the province from London. It also made more complicated maintaining a hard-Brexit negotiating stance with the European Commission, since the DUP favoured a “comprehensive free trade and customs agreement,” and a “frictionless border” with the Irish Republic, both of which favoured “soft Brexit” despite the party’s previously strongly anti-EU stance (Democratic Unionist Party, 2017: 19). The price of DUP support (reportedly one billion UK pounds) promised to be high both in political as well as financial terms, destroying any illusion of even-handedness in Westminster’s dealings with the two communities in Northern Ireland.



Following the general election result, the May attempted to ‘reset’ her claim to leadership. Speaking on the release of the long-awaited *Taylor Review of Modern Working Practices*, May appealed for cross-party contributions to addressing the challenges the report raised concerning fair employment practices (GOV.UK, 2017). Restating her political mission to tackle “injustice and vested interests that threaten to hold us back”, she ruefully acknowledged her political discomfiture: “When I commissioned this report I led a majority government in the House of Commons. The reality I now face as Prime Minister is rather different” (Theresa May, 11 July 2017). May was accordingly circumspect about bringing forward any new legislation to tackle the abuses discussed in the report, while her appeal for cross-party collaboration to address the issues that it raised, was immediately rebuffed by Labour. The *Taylor Review* contained some limited positive proposals, but overall it proved to be something of a damp squib, failing to meet the expectations of the trade unions for urgent reforms of exploitative working practices, particularly in the failure to recommend banning zero hours contracts and address employer imposed or “forced” self-employed status (CLASS, 2017). In retrospect, the probably brief tenure of Theresa May’s premiership will be remembered as no more than an opportunistic attempt to “steal Labour’s clothes” by embracing a rhetorical political populism of social justice that was inimical to mainstream Conservatism philosophy.

The striking failure of May’s populist message to resonate with the electorate, and not least with her own party, uncomfortable with her ill-advised and ungainly flirtation with the cause of ordinary working people, contrasted sharply with Corbyn’s Labour. Corbyn’s previously politically precarious parliamentary leadership was now beyond question, with even former leadership adversaries and critics rushing to come back onboard. The election had conclusively demonstrated that the pro-neoliberal Blairite wing of the Labour Party had completely misjudged the fiercely anti-austerity mood of the electorate. Austerity, from being an unquestionable inevitability, was now a matter of political contestation as never before. It promised to deliver a Labour victory, should the May government collapse and another general election be called in the near future.

In the aftermath of the June 2017 general election, it is difficult to predict the path that the Brexit negotiations with the European Commission will take, or what the longer-term future holds for the embattled minority Conservative government of the newly “humble” but fatally weakened Theresa May. Negotiations with the European Commission, already fraught, were not assisted by ongoing tensions between advocates of the pursuit of a hard-Brexit as against a soft-Brexit within the Conservative government cabinet. The European Commission has adopted a determined posture of “no concessions” or “cherry picking” by the UK in the negotiations (BBC News, 19 June 2007). In the face of little tangible results from negotiations with the Commission, and an attempt by political rival Foreign Secretary Boris Johnson to pre-empt any future concessions, Theresa May attempted to inject new “creative” momentum into the Brexit talks in her keynote “Florence speech” of September 2017. Here, in the city of birth of the Renaissance, she reassured “We may be leaving the European Union, but we are not leaving Europe”. Besides offering a “deep and special partnership”, May prom-

ised an initial payment of 20 billion euros to secure an extra transitional period of up to two years to avoid a “cliff-edge” scenario, thereby allowing UK businesses time to adjust to new post-Brexit conditions (Theresa May MP, 22 September 2017). Such an “implementation period” would require that the shape of the eventual agreement with the EU be agreed as was indicated by the Commission at the outset of negotiations, on the principle that “nothing is agreed until everything is agreed.” However, two possible models for a future trading relationship with the EU, membership of the European Economic Area and that of the recently negotiated EU-Canada trade agreement, were rejected by May on the basis that the UK was already in full compliance with EU regulatory requirements and thus should have a separate bespoke deal. By contrast, Boris Johnson in an implicit challenge for the Conservative leadership, argued one week before May’s Florence speech in an ebullient article in the Brexit-supporting *Telegraph* newspaper that Brexit that would establish the UK as a global free trading entity based on “regulatory freedom” reiterating the hard-Brexiteers’ vision of “simplifying regulation, and cutting taxes, wherever we can” (Boris Johnson, 15 September 2017). May, in turn, was forced to reassure her European counterparts of the UK’s “commitment to high regulatory standards”, arguing “people in Britain do not want shoddy goods, shoddy services, a poor environment or exploitative working practices and I can never imagine them thinking those things to be acceptable” (Theresa May MP, 22 September 2017).

The overture to European leaders by May however produced only a luke-warm response from the Commission and other European heads of state (Politico, 18 October 2017). It was followed by an unscheduled dinnertime tête-à-tête with Juncker and Barnier on the eve of the October 2017 summit of European leaders, seen as a sign of desperation on the part of other European leaders. Addressing the bemused and even skeptical assembled heads of EU states at a dinner the following evening, May pleaded for a deal that both sides could “defend to our people” (Politico, 19 October 2017). Five negotiating rounds had achieved little, and conceded May, were in “difficulty” at the end of the summer, requiring new momentum. With less than eighteen months to go before the date of Brexit, the real possibility of a “cliff-edge Brexit” loomed, as each side began to prepare contingency plans for a situation in which no deal was reached (Bloomberg, 16 October 2017). European Commission officials made clear however that the talks were “deadlocked”, above all, by the UK’s failure to agree to first settle the amount of payment required to honour previous commitments to the EU budget. Whilst the President of the European Council, Donald Tusk, signalled that talk of deadlock was “exaggerated”, nevertheless, the prospect of moving to “Phase Two” of the negotiations to include discussion on future trading arrangements would be conditional on the UK agreeing to a reported 60 billion euros divorce settlement (BBC News, 20 October 2017). As expected, the October summit of EU leaders quickly affirmed that insufficient progress had been made to enable trade talks to commence, although it was agreed that internal discussions could begin among the EU27 with a view to scoping future trade deal talks, possibly commencing by the end of 2017, but conditional on UK agreement to settle the ‘divorce bill’. For Theresa May, having survived one

recent plot to oust her by her fellow MPs, this price would be a hard-sell to Eurosceptic colleagues. On the other hand, she had only eight weeks to decide which payments the U.K. would make, or trade talks would not commence. It would be the most testing period of her premiership. There was at least some suspicion that leaders of certain member states, such as France's president Emmanuel Macron, favoured a hard-Brexit outcome. Despite emollient noises from Jean-Claude Juncker, Donald Tusk, and even from German Chancellor Angela Merkel, the long-standing view appeared to be that the UK economy must become less prosperous outside of the European Union's single market and customs union, if only *pour encourager les autres*. In the hastily-retracted words of Michel Barnier, "we intend to teach people... what leaving the single market means" (BBC News, 3 September 2017).

The fractious nature of the discussions with Brussels were only one part of the political problems facing the May government by the autumn of 2017. It was probably not in the interests of either side for the UK to leave the EU in March 2019 without some kind of trading agreement, suggesting in all likelihood some form of deal would be reached. However, on the domestic front May faced what was possibly a more lethal challenge in the form of her government's successively stalled attempts to progress the passage of the European Union (Withdrawal) Bill through parliament. This enabling legislation transferring the body of EU law and regulations into UK statute from the day of Brexit was contested by both leading Conservative Party lawmakers, including the former attorney general, as well as by the Labour opposition. The fear was that the sweeping "Henry VIII" powers in the bill would allow government to effect unilateral amendments of EU laws through secondary legislation without the full scrutiny of parliament. On the part of Labour, the concern was that the arrogation of these powers by government would be used to dilute EU regulation on environmental and labour protection, in particular. After its initial introduction, the further passage of the bill had been twice postponed as the government faced over three hundred amendments, twelve of which were supported by at least fifteen Conservatives. Thus, potentially, there existed an insufficient parliamentary majority in the bill's favour were Labour to join with Tory rebel MPs. The loss of the a Commons majority in the June general election effectively meant that even a relatively small number of dissident Conservatives could derail the legislation. Labour's amendment demanded that parliament as a whole have the right to vote on the eventual final settlement reached with the EU. Sir Keir Starmer, Labour's spokesperson on Brexit, put the opposition view in an article in *The Sunday Times*, demanding a guarantee that workers' and consumer rights, as well as environmental standards would not be watered down after Brexit, claiming that there was 'no majority for weakening rights' (Sir Keir Starmer, 22 October 2017).

While compromise on the scope of government powers to amend regulations was likely, it underscored just how precarious the position of May and her government had become. Meanwhile, among hard-Brexiteers impatience with the protracted "negotiations about negotiations" and the clamour for the government to walk away from the Brexit talks "in a clean break" was growing. Former Conservative treasury secretary Nigel Lawson among other colleagues, addressed an open letter to the Prime Minister

urging her to “end the highly damaging uncertainty for business” and make immediate preparations for a “no deal” exit under WTO rules (Leave means Leave, 2017). While others appeared more cautious, this was a view echoed by some current cabinet ministers, including the trade secretary, Liam Fox, responsible for negotiating future trade agreements for the UK, for whom a “no-deal” outcome while not the optimal outcome, would not be a “nightmare scenario”. Meanwhile, five major business groups, including the Confederation of British Industry and British Chambers of Commerce, wrote to David Davis as minister responsible for Brexit, who had likewise signalled continued preparedness to “walk away” from a “bad deal”, urging that “agreement is needed as soon as possible” to prevent further business and investment “uncertainty” (Bloomberg, 22 October 2017).

While not an argument for or against a hard- versus a soft-Brexit, WTO statutes and governance practice do not mandate rules that would be effective in preventing a future “race to the bottom” in UK labour standards. Attempts to introduce such requirements into multilateral trade agreements have been seen by many developing countries as a form of disguised “protectionism” on the part of industrialized nations, undermining comparative wage advantage. The topic of policing and enforcing global standards remains a highly contested issue (Tsogas, 2011). Tensions over the appropriate forum for the regulation of labour standards by the WTO first emerged at the 1996 Ministerial Conference in Singapore at which members defined the WTO’s role on this issue, identifying the International Labour Organization (ILO) rather than the WTO as the competent body to negotiate labour standards. As the WTO candidly put it, currently: “There is no work on this subject in the WTO’s Councils and Committees” and while the two organizations (WTO and ILO) “work together on technical issues under the banner of ‘coherence’” in global economic policy-making, “beyond that it is not easy for them to agree, and the question of international enforcement is a minefield” (WTO, nd). Should a Conservative administration remain in power, and the Commission maintain its obdurate insistence on the UK first settling its accounts, a post-Brexit Britain flagged in the introduction to this paper, akin to an offshore “Singapore of the West”, may be the realized phantasy of not just hard-Brexit proponents. In that case, the enhanced enforcement of labour standards as proposed in the Labour Manifesto, offers the only prospect of advancing decent work that can be calibrated within a framework of enforceable rights on the basis of Britain’s democratic sovereign future outside of the European Union.

## **Conclusion**

The central question that this paper has tried to address is that of how to develop the potential for a progressive exit from the European Union that advances labour standards. The Brexit and the general election of 2017 revealed a new political landscape coloured by the depth of popular anger and frustration produced by years of crisis and austerity. A younger electorate, and the return to politics of those previously disenfranchised by the policies of New Labour, but now inspired by the desire for an end to

austerity, provided the driving force behind the remarkable electoral outcome for Labour. This offers a new momentum that if properly harnessed could be the first step towards significant social change and a fundamental realignment in UK politics towards the left. Yet, the victory of the left in securing Corbyn's leadership and the stunning increase in support for Labour in the 2017 election, do not necessarily translate into a critical approach towards EU membership. Many in the ranks of the trade union and labour movement as well as many younger voters remain strongly "pro-European" in orientation. Corbyn has acknowledged the contradiction between the party's Manifesto commitment of strategic state support for industrial development and obligations imposed by EU Treaty that prohibit such subsidies. Despite his personal Euroscepticism, he has had however to perform a delicate balancing act with regard EU membership and to "ending free movement", in order not to alienate some of his most ardent supporters. The Labour Party conference in September 2017 was carefully managed to avoid resolutions being debated that would create open conflict between supporters and opponents of Brexit. Corbyn himself was forthright in his speech to the conference that a new model of economic management was needed "to replace the failed dogmas of neo-liberalism" entailing deregulation and privatization, a "broken" model pioneered by former Prime Minister Margaret Thatcher, but still the prevailing Conservative agenda. However, his remarks, the first by a major political leader actually *naming* the failures of neoliberalism, were framed in terms of the consequences of austerity politics in Britain rather than being openly critical of the European Union's role in promoting this agenda (Jeremy Corbyn, 27 September 2017). The unresolved issues of attitudes within the Labour Party towards the European Union and towards free movement of labour represent an Achilles' heel potentially undermining its further electoral advance. Arguably, however, the left cannot move forward without having made the case for a progressive Brexit in terms of a redeemed national sovereignty as the route to an anti-austerity politics that can produce a fundamental challenge to the balance of class forces.

An explicit critique of the EU entails an understanding that it acts as a direct obstacle to the realization of popular democratic control over the levers of economic and social policy at a national, regional and local level. This orientation rejects idealistic assertions that "another Europe is possible" offering "a Europe of solidarity", not because these aspirations are in themselves unworthy, but because they offer no realistic strategy to confront the deeply embedded anti-democratic structures of European neo-liberal governance that are resistant to fundamental reform (Guinan and Hanna, 2016). Put simply, "Social Europe" has failed before the neoliberal onslaught of the European Commission, making a European *demos* an impossibility. A progressive Brexit as outlined here implies a fully independent sovereign Britain outside the European Union, but not necessarily a retreat into insular or xenophobic preoccupations. Mobilization around new forms of national self-determination can preserve the strengths of the inclusive character of the united all-Britain trade union and labour movement *and* at the same time promote a vigorous *internationalism* based on common class identity. Such struggles carry the seeds of future transformative contests with capital, organ-

ized in the first instance at national level, but affirming commonalities with struggles elsewhere against the austerity policies imposed by the European Commission with the connivance of national governments. What then are the prospects for labour standards in a post-Brexit Britain?

Going forward, predicted UK income growth over the next five years is uncertain with the likelihood of further declining living standards (Hood and Walters, 2017). For an incoming socialist administration this fact alone will create immense problems unless Manifesto commitments to address inherited issues of social injustice are properly honoured. The Labour Party's electoral advance suggests that a popular anti-austerity counter-movement is possible, but can only be fully realised at national level outside the European Union. National sovereignty reclaimed from the neoliberal integrationist EU offers new possibilities for class-based mobilization encompassing all sectors of Britain's workforce, both native and migrant in mutual solidarity. The notion of a progressive Brexit based on the expansive solidarities of class rather than a narrowly conceived imagination of the unitary "nation", has at its core the defence of labour rights and guarantees for all who work and live in Britain, regardless of gender, ethnicity or country of origin. Such labour struggles carry the seeds of future transformative contests with capital organised in the first instance at national level, but containing the seeds of wider working-class internationalism.

By way of empirical illustration of the potential of national labour struggles to express an internationalism, two recent examples of important industrial disputes in Britain are highlighted. The first of these occurred in the petro-chemical refining industry involving foreign contract workers. In 2009, a dispute erupted at the Total oil company's Lindsey refinery over the demand to "put British workers first" in the hiring of contract labour. Gordon Brown, former Labour Prime Minister, attempting to out-flank David Cameron on immigration, had promised "British jobs for British workers" (*The Telegraph*, 11 September 2007). This ill-judged populist slogan was adopted by workers at Lindsey who took unofficial industrial action aimed at preventing the hiring of Italian and Portuguese contract workers. Fanned by the right-wing press, the dispute quickly escalated, with nation-wide unofficial pickets outside power stations and refineries (Woolfson, 2009). In mid-July 2016, a full seven years later, workers at the Fawley refinery conducted a successful official strike led by the left-led UNITE trade union, the largest in the UK, to ensure that Bulgarian and Italian contract workers, receiving half the wages of their British counterparts, were paid at the same rate for the job (BBC News, 27 July 2016).

The second example comes from Scotland. In early 2017 the National Union of Rail, Maritime and Transport Workers (RMT) successfully defended the rights of Polish and Estonian crews on freight vessels operating out of Aberdeen serving the northern isles of Scotland. The vessels were operated by the Danish-owned company, Seatruck registered in the Bahamas, a maritime haven for "flags of convenience". Seatruck was sub-contracted to provide freight services as part of a public tender awarded by the Scottish Government to Serco NorthLink Ferries, a subsidiary of a diverse global multinational that includes in its portfolio of management a notorious UK migrant



detention facility. Seatruck however had resisted demands for payment of the minimum wage to crews since 2014, even to the extent of refusing an offer by Serco to fund the difference between Seatruck's current rates of pay and the legal minimum. The company claimed the crews "start and finish their tours of duty in their home countries, they are working on non-UK-flagged vessels, they are not resident in the UK and they do not pay tax or national insurance in the UK", and accordingly, they were not entitled to the minimum wage (*The Press and Journal*, 5 November 2016). Sustained portside industrial action by the trade union embarrassed the Scottish Government into threatening termination of the main contract with Serco. This, in turn, resulted in Seatruck finally adhering to national UK minimum wage legislation (*The Press and Journal*, 12 January 2017).

As these industrial conflicts suggest, the business model of "labour devaluation" through "regime shopping" in which nations compete by lowering labour standards in a "race to the bottom" can be challenged by a unified trade union movement that rejects division based on racialized and excluded outsiders. Organised actions that support a wider internationalism offer progressive potential in challenging racism and xenophobia. At a societal level, linking trade union struggles at local and national levels with those of the wider community, and mobilising a new generation of activists against the divisive impacts of austerity, could encapsulate the potential of Amin's notion of a "progressive nationalism". Where such linkages between workplace and community, between class struggles on the part of workers and other sections of society have been made they have provided a barrier to extreme rightist ideology.

For the left the immediate challenge is to develop an explicit critique of the *neoliberal* nature of the EU project as a direct obstacle to the realisation of the kinds of popular democratic control over the levers of economic and social policy at a national, regional and local level that embody a progressive nationalism. The European integration process has been "a process of imposition of a condition of reduced and limited sovereignty, affecting not only 'peripheral countries' but also countries of the EU core" (Sotiris, 2016). To reiterate Samir Amin, the "decisive arena" of national sovereignty, reclaimed from the neoliberal EU integrationist project would offer new possibilities for progressive class-based struggles against austerity in order to secure decent work and protected labour rights for all sectors of the workforce both domestic and foreign. Brexit, properly re-positioned by the left in terms of an anti-austerity politics that is also internationalist in character, carries the potential for development of a "popular alternative on the long road to socialism".

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