

The UK's Great Repeal Bill: A bonfire of workers' rights

Julie Hyland
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On Thursday, the Conservative government published its Great Repeal Bill to give effect to Prime Minister Theresa May's triggering of Article 50, beginning Britain's exit from the European Union (EU).

There is now a two-year cutoff before Brexit fully takes effect, on March 29, 2019. The bill, to be brought forward next year, states its objective is to "provide maximum certainty as we leave the EU."

But the claim made by the Leave campaign in last June's referendum, that the UK could disentangle itself from the EU with minimum disruption, was always a lie. Over four decades, the UK has become closely integrated into the EU, in line with the globalisation of capitalist production and trade. Every aspect of British life—from customs, law, working conditions, education, health, transport and the environment—is interwoven with the European and global economy.

That is why the 37-page bill is so short on detail. No country in the modern period has attempted such a course. No one, least of all the ruling elite which is now largely behind Brexit, has any grasp of its consequences. Even the most confirmed advocates of withdrawal—led by right-wing, neo-liberals—are anxious to conceal the real implications of their agenda.

The flimsy nature of the bill notwithstanding, it does indicate the vast scale of what is underway, which is described as the largest legislative venture undertaken in British history.

At its centre is the overturning of the European Communities Act (1972) that gave effect to European law in the UK, as the prerequisite for its joining the European Economic Community—the forerunner of the EU.

Subsequently, the UK adopted a number of treaties including the Single European Act (1987), which provided for the completion of the single market and free movement of goods, capital and persons; the Maastricht Treaty (1993), that incorporated a common foreign and security policy and cooperation in justice and home affairs; the Treaty of Amsterdam (1999) and the Lisbon Treaty (2009) which

brought all 28 member states in to a single European Union.

The bill acknowledges that there is no precise figure for the number of EU directives and legislation incorporated into UK law through these treaties. It tentatively identifies at least 12,000 EU regulations currently in force and 7,900 statutory instruments, which have implemented them. However, this does not include all the acts of legislation made by the devolved administrations in Scotland, Wales and Northern Ireland. According to the House of Commons Library, more than 14 percent of the 1,302 UK Acts implemented between 1980 and 2009 "incorporated a degree of EU influence."

Moreover, EU treaties apply in various aspects to the Crown Dependencies of Guernsey, Jersey and the Isle of Man, and to a lesser degree among several of the UK's Overseas Territories, most notably Gibraltar and Cyprus (home to UK military bases).

That is why, despite its title, the Great Repeal Bill will "convert EU law as it applies in the UK into domestic law on the day we leave—so that wherever practical and sensible, the same laws and rules will apply immediately before and immediately after our departure."

This is necessary in order to "provide for a smooth and orderly exit," Brexit Secretary David Davis writes in its foreword. At first glance, this is at odds with Davis' other claim that the referendum was driven by a "desire to take back control" and restore British "sovereignty." In reality, it expresses the interests of the banks and big business that oppose any regulatory disruption to their access to trade and the European single market.

According to the *Financial Times*, efforts to replicate EU regulatory agencies at a domestic level—especially in the field of aviation, nuclear technology, pharmaceuticals and financial services—will "be expensive and laborious to create," which is why the government "has signalled that it will remain under the regulation of EU authorities where necessary during any transition period after Brexit."

However, EU leaders have already rejected the government's demands that talks on the terms of Britain's

exit run parallel with negotiations on its future relations with the bloc. They accuse the government of wanting to “have its cake and eat it” in its demands for continued access to the Single Market—reflecting the reality that, having left the EU, Britain becomes a de facto competitor.

The EU’s draft negotiating position governing Brexit, unveiled Friday by European Council President Donald Tusk, “excludes participation based on a sector-by-sector approach.” It warns, “A non-member of the union... cannot have the same rights and enjoy the same benefits as a member.”

In keeping with the hardline Brexit position of eurosceptic Tories, the bill acknowledges that no agreement may be reached and reiterates that “no deal for the UK is better than a bad deal for the UK.”

In the event that it fails to get its way, the government is preparing separate bills including the establishment of a UK customs regime and new immigration regulations. Anti-immigrant propaganda played a key role in the referendum campaign and has now largely been adopted by both the Leave and Remain camps.

The bill states that new immigration legislation will not change anything for “any EU citizen” already resident or moving to the UK, “without Parliament’s approval.”

This means nothing given that parliament, with Labour’s support, refused to guarantee the rights of EU citizens currently residing in the UK—using them as a bargaining chip in negotiations.

More fundamentally, it provides for so-called “Henry VIII clauses.” These parliamentary procedures date back to the 16th century, when King Henry VIII effectively gave himself the powers to rule by decree. All powers “contained in EU-derived law and which are currently exercised by EU bodies” will be transferred to “UK bodies or ministers,” enabling ministers and civil servants to decide which aspects of EU legislation and regulation can be kept, amended or discarded without recourse to parliament.

Leading eurosceptics and big business figures have made no secret of their plans to make a “bonfire” of workers’ rights. Targets include regulations on the maximum working week, the Temporary Agency Workers Directive (giving agency employees the same rights as other workers in similar fields) and holiday pay entitlements.

Writing in the *Daily Telegraph*, John Longworth, former director general of the British Chambers of Commerce, urged the government to set up a “Star Chamber” of MPs, economists and businessmen to oversee this process who are “not frightened to think the unthinkable.”

The bill also removes the UK from the jurisdiction of the Court of Justice of the European Union (CJEU). This has been a route for many attempting to challenge the UK

government in the field of employment and human rights. The bill argues that this will not affect the “substantive rights that individuals already benefit from in the UK.”

Given that the EU Charter of Fundamental Rights will also be invalidated on the day Britain quits the bloc—another central demand of the eurosceptics—such assurances are also meaningless. Sir Bill Cash MP, Tory chairman of the Commons European Scrutiny Committee, has said the Charter “provides protection for people who have no right to be protected,” thereby overturning the concept of inalienable rights, common to all and free from bureaucratic or ministerial fiat.

Finally, the bill intensifies the UK’s own constitutional crisis. The current framework for the devolved administrations of Scotland, Wales and Northern Ireland is predicated on EU membership, and assigns the regional governments responsibility for implementing EU policy in areas of their competence—such as agriculture, transport and the environment.

The bill stipulates that all powers “exercised by the EU will return to the UK government.” This conflicts with the convention that Westminster will not legislate “with regard to devolved matters in Scotland without the consent of the Scottish Parliament.”

The Scottish parliament, which is overwhelmingly opposed to Brexit, has already passed a resolution demanding a second referendum on independence from the UK, while Scottish National Party leader and Scotland’s First Minister Nicola Sturgeon has threatened to block the Repeal Bill.

For its part, the EU has already indicated it will side with the Irish nationalist parties in rejecting the re-establishing of a hard border between Northern Ireland and the Irish Republic, following Brexit. Upping the ante, the EU’s draft negotiating position appears to back Spanish claims to the British territory of Gibraltar on the Iberian peninsula, which voted 97 percent to remain in the EU. It stipulates that any agreement reached between the EU and UK will not apply to Gibraltar without the agreement of Spain.



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