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Brexit, “Immigration” and Anti-Discrimination
Adrian Favell and Roxana Barbulescu

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Introduction

However it is interpreted, no-one will deny that central to the causes and consequences of Brexit have been migration and the European Union’s foundational commitment to the free movement of persons. The dust had barely begun to settle on the result before a host of academic commentators had stepped forward to identify “EU immigration” as a – if not the – decisive factor behind the Leave vote.

Our contribution to this volume examines what lies underneath the “EU immigration” hypothesis that has become such a dominant interpretation. To speak of “EU immigration” is a legally as well as sociologically inadequate view of free movement and population in the UK and Europe. In a first section, we sketch some of the key political science sources on the EU referendum, showing how these works have in effect uncritically confirmed and reproduced a reading of “EU immigration” and Brexit uncomfortably close to the one promoted by the UK Independence Party (UKIP)’s leading figure Nigel Farage. In the second, we introduce into a debate dominated by specialists of public opinion and electoral analysis, the view of migration scholars: facts about immigration, migration, mobilities and free movement in the UK, as well as facts about the dynamics and effects of migration and the European labour market in a comparative European context. As a political issue, the “democratic” effects of migration need to be separated from its economic and demographic drivers. Each have their own potential sustainability in any given context. As we will show, in the UK, the problem with migration and mobility is strictly one about its popular democratic sustainability, not its economic or demographic features—particularly when viewed comparatively. In a third section, we consider the evolution of legal and policy responses to the Brexit vote, as political leaders wrestled with reconciling the needs of a porous, highly transnational economy and society with the false, nationally-bounded understanding of “the people”. This talks us through the details of former Prime Minister David Cameron’s fateful deal on EU migration before the vote, to the consequences after it, and the unfolding of the

ongoing negotiation over the UK's exit. The conclusion then speculates on the likely scenarios for migration in a post-Brexit Britain.

Who or What is “EU immigration”?

It is widely accepted that the calling of the Brexit referendum was directly linked to inner turmoil in the British Conservative party over Euroscepticism, and to the threat from the right posed by the UK Independence Party—notably after the 2012 European elections (see chapter xx). UKIP had long advocated a stop on EU migration to the UK, an issue it saw at the heart of British sovereignty and a mobilising factor for working class voters. After the vote, pioneering scholarship on UKIP (Ford and Goodwin 2014) was extended to suggest that peripheral and impoverished voters, who were mostly former Labour voters – in many discussions referred to as “the left behind” – had converted their transfer of support to UKIP into a Leave vote at the referendum (Goodwin and Heath 2016; Goodwin and Milazzo 2017; Ford and Goodwin 2017). Polling and early analysis – including the widely cited Ashcroft surveys (Ashcroft 2016) – meanwhile had quickly discovered that “immigration” and “sovereignty” were indeed the most stable likely causes of such voting; the most likely suspects being the more than 3 million “uncontrolled” foreign EU nationals in the UK as residents (in early 2017, the figure was said to be as high as 3.7 million; see Vargas-Silva 2017). “Immigration” has also been widely affirmed as the key factor in Euroscepticism across Western Europe (Kriesi et al 2008; Toshkov and Kortenska 2015; de Vries 2018). Other scholars questioned the emphasis on social class rather than values, but did not question the focus on “immigration” (Kaufmann 2016; Inglehart and Norris 2016). This mode of thinking further solidified with the first definitive book length analysis of the referendum, with “immigration” again seen as a key pillar of the Leave vote (Clarke, Goodwin and Whiteley 2017).

The cumulative effect of this powerful consensus of leading scholars propelled centre stage the idea that a hitherto silenced or marginalised white working class had managed to articulate a majority anti-immigration voice through the referendum (notably in the work of electoral specialist Evans and his various associates; i.e., 2016a). This argument became a core part of what will likely be regarded as a definitive statement on Brexit and British politics (Evans and Menon 2017). In 2015, Evans and a different co-author had published a short blog piece on how what they labelled “EU immigration” was likely to determine the outcome of the upcoming referendum (Evans and Mellon 2015). The key part of the argument was how the rising “immigration” of EU origin tracked trends in growing percentages of people willing to vote Leave, converting the hitherto low salience of the EU as a political issue in the UK, into a central concern. The referendum then became the moment this would be expressed. Crucial in the run up to the referendum was what Evans referred to as the “incontrovertible fact” that from 2013 “mass EU immigration” had become the largest component of migration to the UK, around half of a total net figure of about 320,000 (Evans 2016b). In the wake of the vote, the stark and simple 2015 thesis was elevated to the status of uncanny foresight—joining voices across the political spectrum blaming the defeat on Tony Blair and his open border, cosmopolitan policies of the 1990s and early 2000s (Coleman 2016; Goodhart 2017).

Remarkably, the debate amongst public opinion and electoral specialists has taken place with little attention to what this “immigration” of EU nationals in fact is—both

legally and sociologically. We may all agree that the surveys suggest that the British population (or more, accurately, the English) tend to perceive the 3 million plus resident non-national Europeans as “immigrants” – at least when they are asked directly how they feel about “immigrants”. The implication is that Nigel Farage was right to say – as in the notorious poster unveiled in London a week before the referendum – that Britain had reached a “breaking point” on its willingness to accept immigration from the EU. He pictured this “immigration” as hordes of swarthy looking men from somewhere East swarming over a border in Central Europe. But who or what were Leave voters really thinking of? Was there really a “mass” aggregate of “EU immigration” causally determining political and policy outcomes?

It is a normative not an empirical choice to prioritise the receiving society as the primary jurisdiction of this migration. This is indeed a question of “sovereignty”, as Farage would say. Foreigners are always present in contemporary globalised societies, in very large numbers. Their status is determined by a variety of legally and economically determined means. Counting some of these movers as an “immigrant” is what a receiving nation-state does routinely in order to assert its sovereign power over a numerically tiny part of the overall populations that are daily crossing its borders. EU Freedom of Movement of Persons, however, blurs precisely this enactment of sovereignty, as a very large number of EU citizens may be present in Britain well beyond the short term of a “tourist” visit—or even the OECD’s standard one year criteria of migration. Evans and others use international passenger survey data about such “long term migrants”, which estimates numbers on the basis of small samples and unreliable statements by those entering about their intentions to stay. However numerous, these EU citizens remain indeterminate as migrants or movers in terms of ultimate jurisdiction, without any obligation to become an “immigrant”—at least not until they cross some legal line which indicates a genuine settlement. On this, a willingness to take permanent resident status or, better, to seek naturalisation would seem the obvious objective criteria in order to count someone as an “immigrant”. Yet Evans and others provide no evidence as to what proportion of the total claimed 3.7 million EU residents or the 160,000 or so net annual “EU immigrants” are really immigrants in this sense. Moreover, they offer no recognition at all of the enormous heterogeneity of this population. EU nationals in the UK include very high numbers of professional, skilled and human capital rich workers; until very recently at least half have been West European; they are mostly younger and more educated than their British counterparts, and are difficult to distinguish from the high numbers of students and tourists in the country (Rienzo and Vargas-Silva 2017; Gordon et al 2007). All these categories of people are foreigners present legally on British soil. But they are not all, automatically, “immigrants”. Echoing Farage’s sweeping exaggerations, the Brexit scholarship has also relied on dubious assumptions about an aggregate “mass immigration” to sustain its findings.

Evans and Mellon claim: “Actual immigration rates are the key to understanding levels of concern about immigration” (2015). The truth is the reverse. Public concern about “immigration” has been used to confirm and reproduce false academic measures, categorisations and representations of “immigration”. As Nando Sigona put it poignantly (being one of them), EU nationals in the UK woke up one morning in June 2016, to discover a border had passed over them (Gonzales and Sigona 2017: 2); they had, overnight, become “EU immigrants”—just as Farage had labelled them. In the days to come, they discovered their own colleagues using the same language and

same methodological nationalist assumptions about mobile populations. A Hobbesian notion of sovereignty reasserted its power to “name”: to normatively classify, identity and delimit the “true” British population and those “foreign” to it, regardless of the functional reality of its global and regionally integrated economy and society, or the heterogenous “face” its mobile and migrant populations in fact had. With the Brexit vote, economy and demography was reduced to “democracy”.

Needless to say, no “democratic” vote should be allowed to determine the scientific understanding of how in fact economy and demography work in a porous global society; nor should it be allowed to pre-empt law and determine the formal status of foreigners present on a territory, or mischaracterise populations sociologically. Academic interpretations and statistical constructions bear some responsibility for confirming rather than contesting the misrepresentations which drove the Leave vote.

Economy and demography versus politics

Membership of the EU meant of course that the UK had to accept consequences for migration more generally. Regarding migration internal to the EU, the free movement of persons is one of the foundational tenets of the EU’s single market. This entails the right of any EU national to live and work freely in the UK under certain conditions, notably to be protected from disadvantage (i.e., discrimination) on the basis of their foreign nationality. Protection against discrimination in the UK on the basis of gender, sexuality, age, race or disability has been strongly inscribed in national law and practice for decades. Introducing non-discrimination by nationality was thus a dramatic extension of these equality principles. For example, in the job market: non-national EU residents had the same equal claims as nationals; to discriminate against a foreign EU national if they were the best qualified person – i.e., to view them as an “immigrant” with a lesser claim than a “national”, such as insisting they need to get prior authorisations (a “visa”) before consideration – becomes the equivalent of discriminating someone on the basis of race, gender or disability. This is a line that is very heavily policed in British organisations and institutions. Britain’s attractiveness to free movers in the EU as well as the host population’s advanced sensibility in applying non-discrimination norms in questions of employment, access to education, and in the private sphere – i.e., in rentals or buying a house – made it arguably the most effectively Europeanised member state on this dimension (that is, in a “horizontal” sociological sense; see Favell and Guiraudon 2011).

Britain has always been noted a very “good” member of the EU in terms of compliance to freedom of movement norms, and British of all stripes have never been shy in using their free movement rights abroad (especially retirement migration and property investment in the South of Europe; Benson and O’Reilly 2009). They now number 1.4 million, with very high numbers in Spain and France. Back home, flying in the face of the UK’s universally assumed Euroscepticism and its so called cultural “exceptionalism” (Evans, Carl and Dennison 2016; Carl and Dennison 2017), the British were in fact “hyper-European” in terms of “fairplay” towards EU foreigners. This has been something that cannot be so well claimed in other “advanced” North European countries: for example, in terms of some kinds of employment in France, Denmark, or Germany, or access to housing in Netherlands or Sweden. British attitudes towards the regulation and functioning of free market principles, and implementation of non-discrimination norms, in fact put it at the heart of European

political values, very close to the liberal view of the EU Commission and its views on the normative goals of Europe (Gerhards 2007; Manners 2002).

On migration to the UK from outside the EU (extra-EU migrants), however, Britain has been notorious for how over the years it has negotiated a very long string of opt outs on migration and borders such that it was largely insulated from much of the Europeanisation (in a vertical policy sense) of EU immigration policy. Britain has been part of the Dublin convention on asylum, but was not part of Schengen. It avoided most of the consequences of the Syrian refugee crisis. It also has a bespoke free movement accord with Ireland as part of the Common Travel Area, which has become a very difficult element in Brexit negotiations. The EU's concerns over the rights of third country nationals, common border policing and security, visa regimes, neighbourhood cooperation, or immigrant integration thus have not and do not impinge much upon British sovereign control over its own immigration policies—again, to be clear, for migrants from outside the EU.

Under the pressure of UK politics, from Labour to Conservative administrations, the UK's immigration policy towards the rest of the world has been rigorously tough and mean for decades, and increasingly so in recent years—arguably tougher than any close neighbour apart from Denmark. It imposes caps on numbers (including students and nurses), it has successively tightened access for family members, discriminates against spouses, sets high economic thresholds on proving independent means, and is only averagely open to high skilled migrant visas (Ruhs and Anderson 2010; Briddick 2015). These factors all impose discrimination, or simply exclusion, on the chances of foreign workers in the British labour market, however much they are objectively “needed”.

Both the Conservative and Labour Parties campaigned on a ticket to reduce overall immigration in the general elections in 2015 and 2017, committing themselves to draconian (and completely unrealistic) upper numbers limits which even included students (the most obvious source of high skilled selective migration). The commitment to the symbolic threshold of 100,000 net migrants annually has not been met for twenty years (Cohen 2017). In setting these state-sanctioned targets, the scope of the British migration system has already been transformed from one that selects according to regulated market allocations to one that reduces migration by top down state intervention, dedicated above to all to letting in fewer people, regardless of talent or skill. The goal of Brexit will be to impose this immigration policy on all migration in the country. Understanding British immigration policy to the rest of the world is indeed key to the question of “EU immigration” and Brexit, because the current Prime Minister, Theresa May, was the chief architect of this policy while at the Home Office; it is this construct which has determined the government's view of EU migration after Brexit.

The reality was Britain did not need to leave the EU to achieve this level of “independence” on immigration policy. That is not to say that its external borders are airtight. In fact, by all visible accounts, because of the de-regulated nature of parts of the economy, there are very significant numbers of black market workers in the UK, working in low end hospitality, services, domestic and care work, sex work, agriculture and construction, etc.

Brexit will not change much of Britain's already independent immigration policy, therefore, although it will change the supply / demand dynamics, because of the way extra-EU and intra-EU migration are related. Without doubt, EU membership did have a dramatic effect on this migration and other forms of spatial mobility to the UK from Europe. It is not clear how much the Labour Party intended it, but their policies of the early 2000s on EU accession certainly did lead to a transformation of population in the UK (Regout 2016). This was qualitative as much as quantitative. Labour gambled on further extending and deepening British porousness to global flows and mobilities of all kinds, which date back to the "big bang" trade policies of the Thatcher era. This inevitably created an "addiction" to labour migration, as Chancellor Gordon Brown's Britain became from the late 1990s to the mid 2000s became the most open migrant labour market and economy in Europe. The opening to East Europeans with the 2004 accession and after, however, effected a signal change on the potential of satisfying the rampant British economy's demand for migration. From sources for immigration which were predominantly non-European, non-white, lower skilled and substantially irregular, there could be a shift to a new source of regulated, skilled migrants from the East, who – it may have been thought -- would be much more likely to not settle long term or cause "ethnic" frictions, because of their (white) race, (Christian) culture, and easy access to back-and-forth lifestyles in their home countries, especially on cheap airlines like Ryan Air (Favell 2009).

The opening of British borders to freedom of movement of persons after accession in 2004 was also part of the British geo-political commitment to Eastern Europe—the French, for example, were much less keen on Eastern Enlargement. Britain in effect aligned with Germany on weighing the opportunities of enlargement over the risks. It was widening, rather than deepening. The effects were certainly dramatic. With only Sweden and Ireland joining the UK in opening the doors unreservedly to free movement from new member states, and other EU member states imposing sometimes lengthy barriers of up to seven years to full accession, it became a kind of natural experiment in varieties of labour market, border regimes, and migration selection/sorting mechanisms.

The percentage of East Europeans interested in moving West was high (albeit always massively exaggerated, especially by German and Austrian demographers; see Kupiszewski 2002). Notoriously, though, it was heavily underestimated in Britain by advisors to the government (Dustmann et al 2003). What was estimated around 50,000 became well over half-a-million in the first two years, mainly from Poland. Overall, following the enlargement three million people have moved from the Central and Eastern states to the West European states (Barbulescu, Lafleur and Stanek 2015). Over a third have come to Britain. While Germany was open to comparable numbers to the UK, it kept CEE movers in subordinate statuses, perpetuating a dual economy for migrant workers. In France, foreign workers have been routinely excluded by both formal and informal means, in both labour market and welfare state access—it is now slowly moving towards more liberal policies. The Netherlands and Scandinavia were also long able to restrict access to the labour market for foreign skilled workers through unionisation and limited recognition of foreign credentials (Favell 2014).

Given this range of labour market conditions, the basic migrant supply, choice of destination, and the demand of a booming UK economy under New Labour, the selection effects for the UK were astonishing. The supply was overwhelmingly

“positive” in normative economists’ terms (what critical scholars label “neo-liberal”): young, mobile, skilled, human capital rich, and well organized in transnational migration practices (Garapich 2008). Poland and later Romania and the Baltics were all a significant source of well qualified, skilled, and/or highly motivated workers. This has had large effects on multiple sectors of the British economy: in services, hospitality, care, but also education, healthcare, and finance, all of which had access to a pool of talent wider than any of their European neighbours. A large scale study following the accession of the A8 countries found that employers characterized the increased labour supply very broadly as: young, both male and female, and prepared to do “entry level jobs”, as well as those bringing skills. Employers observed that skilled workers were available at lower pay relative to their skill, either because their qualifications were not recognized, or because they wanted to work abroad in an English language speaking environment, seen as a gateway to the world (Ruhs and Anderson 2006: 84). At the same time, there was in effect a brain drain from Poland and Romania to the UK, via the remarkably open British university sector (Moroşanu 2016), as well as jobs in finance and other high end services (Csedő 2008). By 2015, 40% of all new jobs in the UK university sector were being taken by EU citizens (THES 2016). As a result 17% (33,735) academic staff at UK universities are from other EU member states, with the majority concentrated in research-intensive universities (Universities UK 2017). East European migration was only adding to a sizeable booming West European professional migration since the late 90s, which was largely invisible to everyone except employers. On all points, the British economy collected the benefits. In terms of economic theory this was a model migration system from the receiving point of view (Drinkwater, Eade and Garapich 2009). Britain was selecting at the high end; even among the lower skilled, Polish migration was weighted towards entrepreneurial business activities, and complementary roles in the economy. These highly transnational migrants and their families benefitted at home and abroad: capital was flowing back to Poland, driving growth there. If any economy in Europe fitted neo-classical economist George Borjas’s model of the EU and free movement (Borjas 1999), it was the Poland-UK migration system in the 2000s.

The 2008 financial crisis hit the UK less than other parts of Europe. There was an uptick in net migration after 2010, and certainly numbers and types of migration diversified under the pressure of poverty migration from some sending countries (Lafleur and Stanek 2016). Even then, if one were to focus on a substantial part of this “new” new migration – Southern Europeans – it would be found to be overwhelmingly young, economically mobile, and able to find work in the UK. London continued to attract the majority of EU citizens arriving to UK, retaining up to a third of all new arrivals; recent waves of Europeans, particularly those from the new member states, tended to be somewhat more dispersed (Vargas-Silva 2016). This uneven distribution certainly meant the benefits and costs were not divided evenly among different parts of the country—a significant factor in the polarisation of the Brexit vote. There has also been a marked tendency of employers and entrepreneurs to go “off-the-books” in employment practices in agricultural and construction work, relying increasingly on the informality and flexibility of transient East European low skilled workers (Morris 2014). “Posted” workers also can avoid the free movement anti-discrimination norms, working at rates under the legal minimum. These practices drew increasing media attention and sparked growing anger in some provincial regions.

Even so, and despite the ever ramped up attempts to restrict and lock out non-European migrants in UK immigration law and policy in the last two decades, it was not until 2015 that intra-EU migration to the UK exceeded extra-EU migration. The proportion of the two groups still remains close to 3:5 among the 8 million resident non-nationals; the vast majority of the further 5 million immigrant new British citizens (i.e., those born outside the UK, who have naturalised) were born outside the EU.

At the beginning of 2017, entries from the European Union in the UK still made up for half of the total net entries of non-citizens of about 320,000 net growth each year—certainly a very substantial population growth by any European standards. After this, EU migration to the UK fell off. As of the first quarter of 2017, 2.4 million of the total 3.7 million EU born were reported to be in work (Vargas-Silva 2017: 3-5). Given this is primarily a labour driven migration, it is perhaps not surprising that Europeans have had higher employment rates than those born in the UK. Male workers born in the EU15 (mostly West Europeans) had only a slightly higher employment rate than the males born in UK (78% to 74%). Eastern and Central Europeans from the newer member states – A8 and A2 residents – however, had higher employment rates than both than EU15 and UK nationals; indeed they were higher than for any other categories or nationalities, highlighting the strong implantation of the new mobility from the EU in the British labour market. In 2015, (male) employment rates for A8 residents stood at 91% whereas for A2 residents it was a slightly lower 89% per cent; a solid +17% and +15% higher than for British born males respectively (Rienzo 2016: 4). Similarly, employment rates for women were higher for A8 and EU14 than for those born in UK.

The British Labour Force shows that there has been an important shift in terms of the numbers of workers amongst those born in EU countries. If before the accession of A8 countries in 2004, 85% of the EU born workers were born in the EU15, starting with 2011 and with the raise in the volume of the post-enlargement mobility, most EU born workers were indeed A8 workers. By the first quarter of 2017, 58% of total EU born workers were from A8 and A2 countries (Vargas-Silva 2017: 5-7). This clearly had potential selection effects: the nature of British demand for workers may have been shifting in a more low end direction.

Employment rates only give a crude indication of effects on the economy. The best economic analyses offer absolutely no support for the “EU immigration” hypothesis. It has been repeatedly shown that the net fiscal effects of EU migration to the UK have been substantially positive in the aggregate (Dustmann and Frattini 2014). With Brexit looming, it has also been repeatedly shown that any reversal of Britain’s openness to migrant workers will have substantially negative effects on the economy (Portes 2013; 2016). Britain’s demographic profile would also be negative were the children of these migrants not counted as “British” (Grant 2015). EU workers were clearly visible to poor and marginalised English populations in agricultural and coastal locations; but there was little to suggest they were taking low end jobs that the heavily benefits reliant English population in these locations would be willing to accept. At the same time, many areas of England with next to no EU citizens present voted to Leave; among those who voted to Leave but which had never voted substantially for UKIP were also some constituencies with very high South Asian populations (Ehsan 2017). The analyses of so-called “benefits tourism” by poor EU

movers also showed the cost of migration to be a media-spun myth. A 2013 study found that although newspapers were claiming there were over half a million EU unemployed, these gross figures included students, pensioners, non-working mothers and other family members. 43% of the UK national population is “not working” in this sense, compared to 30% of the EU national population. There were, in fact, at the time about 100,000 EU nationals unemployed, and about 60,000 were claiming Job Support Allowance, with much lower rates for disability and other benefits to which they are equally entitled (Portes 2014).

The only reasonable conclusion that can be drawn from comparative economic and demographic analyses is that high levels of mobile and flexible EU workers in an open global economy, without a necessary long term settlement in the UK, was both an economically and demographically sustainable population system, which positioned the UK to great advantage in the EU during the 1990s and 2000s. Britain’s problem with “EU immigration”, given its hugely difficult management of non-EU immigration, was strictly a political problem—“Great” British democracy was unable to handle the growth dynamics and the social transformation it implied.

The path to Brexit

The EU referendum was prefigured by quite desperate negotiations to solve these political problems by the then prime minister David Cameron, to secure concessions or British opt outs on aspects of the legal framework of EU freedom of movement. Harassed by UKIP’s rise and the right wing of his own party, he pursued a solution to the “migration equation” (Financial Times 2015) that might reconcile the contradiction between the growing political unsustainability of the UK’s commitment to freedom of movement with the continuance of an open “neo-liberal” style economic regime structurally dependent on higher levels of migrations of migration than its neighbours (see Parker 2017 on the left wing version of this dilemma). During the coalition years (2010-15) Cameron was vulnerable above all else to successive government’s unrealistic commitments on limiting annual aggregate numbers of net migrants in the UK economy. He was also vulnerable to any downturn in the economy in both receiving and sending contexts that might affect the transnational mobility of migrants (i.e., migrants having to give up on “coming and going” patterns and instead settling), or which might affect positive selection effects (for example, the possible growth of poverty migration from Southern Europe—however implausible Britain might be as a generous welfare state haven). Neither he nor any Conservatives felt confident trying to make the positive case on economic or demographic sustainability.

Instead, Cameron played the welfare spongers card: basically creating a phantasm of welfare benefits abuse among “immigrants” in order to justify both tightening the rules and a political deal on modifying freedom of movement with the EU. Observers could also read how these tendencies were targeted in fact at something else (Anderson 2013; Tyler 2010): austerity towards the much higher numbers of UK nationals dependent on the welfare system. By instigating normative or moralised ideas about “bad” “immigrants” who could be denied parity with “good” citizens, the government could reinforce and align attempts to exclude other “bad” citizens, who were full national members of the polity, from the full citizenship and welfare rights it guarantees under the usual norms of social citizenship. In other words, the

unemployed, the homeless, the mentally or physically disabled, single mothers, and so on could also be positioned as “unworthy” of citizenship, analogous to Roma beggars or Polish families with too many children. Yet this roll back of the classic Marshallian ideas of inclusive citizenship was not limited to the UK. Much of the incremental restrictions being brought in by the British state in these years was not at all out of line with the restrictionism of both European Court of Justice jurisprudence, or tightening bureaucratic practices being developed in other countries (Menendez 2014; Everson 2014).

So Cameron was not so much out of step with EU colleagues in seeking a four year delay on welfare entitlement, or a ceiling on absolute numbers in an “emergency brake” on EU migrants to the UK. It was a “Deal” as Donald Tusk tweeted. It could have worked as a selling point for the Remain campaign, but it did nothing to silence the political lies circulating about “EU immigrants”. Without any kind of positive discourse about the 3+ million, the nature of their presence and involvement in the labour market in Britain, and the sheer marginality of even the best economic analysis, Cameron’s solution to the migration equation was too little too late. In any event, the deal was defunct with the Brexit vote; instead Article 50 would be triggered, and henceforth instead of negotiating over a small amendment to freedom of movement of persons in Europe, Britain would be negotiating every single line of its world trade agreements on the freedom of movement of capital, goods, services and persons—the entire infrastructure of its place in global capitalism. In the meantime, Britain was left with its current legal commitment to freedom of movement, and 3+ million resident plus EU non-nationals facing an expiry date on their rights to even be present on UK soil. And so now they became an object of negotiation – and blatant, undignified horsetrading – on preliminary agreements before even the trade negotiations could begin. Moreover, in one foul swoop, the UK had landed 1.4 million of its own citizens living in the EU in their own serious status problems—on a reciprocal hiding to nothing.

Unlike their counterparts in the UK, British populations abroad are predominantly non-independent older residents, highly dependent on transnational benefits agreements and overseas health care—so unlike Britain’s youthful and mobile EU populations. They are also hugely reliant on cheap airline mobility, effortless banking, and the good will of rural and coastal populations tolerating their often brazenly colonial lifestyles (King et al 2000). The population of Gibraltar at least realised this; voting 96% to remain despite historical volatility over the status of the municipality in Spain. Back home, the British voted to strip themselves of cross-border citizenship rights they had enjoyed – albeit unconsciously – for decades. Brexit would devalue British citizenship internationally in terms of equal, reciprocal access to other states (Kochenov 2016). It seemed to concern Brexit voters very little, so confident were they with their colonial birthright: one lady was quoted as saying that EU citizenship meant nothing to her because “British people had been able to live and work and travel anywhere they wanted to in the world for centuries now”. Rule Britannia, indeed.

British negotiators, however, were certainly conscious of this potential devaluing. One of May’s redlines has been the untrammelled right of British to continue to be able to live, work and move freely around Europe (as will, of course, non-British EU citizens, excepting in the UK); this would be something like exiting the club but

retaining all membership benefits. On the other side, with “EU immigration” being credited with playing a key role in the Brexit vote, the EU’s ongoing commitment to the freedom of movement of persons has become an article of faith sitting awkwardly at the core of the ongoing negotiations. In its purest sense, non-discrimination by nationality is the economic commitment of a member state to a de-nationalised European-scale labour market, regulated not by national sovereignty but by a legal affirmation of the claims of post-national membership, albeit incomplete (notably over voting rights). For Brexit to mean Brexit (in May’s stentorian phraseology), it must in some sense end these practices of non-discrimination. The British abroad and EU nationals in Britain must, in this logic, face discrimination again as foreigners (and “immigrants”).

On the face of it, then, as a two-way negotiation, the EU as well as the UK have been keen on the retention of rights for their citizens, but equally keen on ending the ones of citizens of the other side. With the European Commission as the named guardian of the freedom of movement, the EU insisted that the 3+ million EU nationals in the UK who have made use of these rights in good faith should not lose the right to remain or enjoy equal treatment when the UK is no longer an EU Member. On the other hand, the UK entered the negotiations with not one but two objectives: firstly, to repatriate some control over who among the 3+ million Europeans would still be able to come to work and live in the UK after Brexit, which will entail discrimination by nationality; and secondly, to safeguard the existing rights of UK citizens across the EU member states, including voting rights—assumed basically as a national birthright.

To break the deadlock of the negotiation, in June 2017 Theresa May proposed a “settled status” for all EU citizens living in the UK which would give access to the same rights including “healthcare, education, benefits and pensions”. “Settled status” was a UK neologism for permanent residency status that has existed as an option for EU nationals since 2004, although it has never been mandatory and was largely ignored by them. However since 2015, it has been needed before naturalisation can be applied for, or before children have access to British *ius soli* citizenship. Procedures regarding “settled status” have been cumbersome, expensive, and weighted towards making access difficult: proof of several years physical presence in the UK is required and the processing costs have risen steadily to well over £2000 out of pocket per applicant. It can be assumed that the final goal of these procedures is to impose the same tough treatment and restrictions on any new EU migration after Brexit as exist already for immigration from outside the EU, as well as being as exclusionary as possible to those already in the UK.

In the event, negotiations on the post-Brexit rights of EU nationals in the UK and British nationals in EU concluded on 8 December 2017 (European Commission and UK 2017a, 2017b; European Commission 2017). The document was strongly formulated in terms of reciprocity between the two parties, although more attention was given to specifying the conditions for residency of EU nationals in the UK. The document was, at first glance, a breakthrough, as it largely confirmed the existing rights of EU nationals and their family members who are “legally” residing in the UK. Yet as Peers (2017) has noted, “legally” here is an ambiguous notion. Most EU nationals have resided in the UK for many years, sometimes decades, without being checked and without applying for permanent residence. It could instead mean only

those who hold or are able to gain formal residency from the Home Office. The reality on the ground here is salutary. In a position paper of an organisation defending the rights of EU nationals, it was reported there has been a 29% rejection rate and a 10% error rate in applicants for permanent residence (The 3 Million 2017). Even more alarmingly, women are less likely to secure their residence due to their irregular work histories and over-representation in unpaid work. (Shutes and Walker 2017). Overall, about a third of those who apply cannot secure permanent residence to retain their right to remain or work in the UK. Many EU nationals in fact have been advised by their lawyers not to apply, as they do not meet the conditions and by applying they would put their residency in danger. These people would become subject to immigration control under British law after Brexit Day. Concerning family member of EU nationals, meanwhile, only those related to EU nationals at the time of the exit would enjoy the same rights (i.e. not those who get married or who are born after). The EU for its part was concerned about the conditions under which the UK would confirm the rights of EU nationals and the oversight of the European Court of Justice and international human rights obligations. It continued to balk at confirming the rights of British citizens to continue to enjoy free movement outside their country of residence, since it does not want to allow an exiting state to cherry pick benefits without membership.

Britain has wanted to make all resident EU nationals go through an assessment process, including those who have already taken a permanent residence certificate under EU regulations. While both the UK and the EU reserve the right to ask residents to reapply for their status after Brexit Day, it was Britain which announced this, thereby setting its own terms and conditions on the so called “settled status”, which will bring EU nationals under British immigration law (UK Government 2017). UK government can also demand EU nationals to take part in mandatory civic integration tests which only applied to migrants from outside the EU before Brexit (see Barbulescu 2015). Leaders of the Brexit negotiations had promised simplified procedures to confirm existing rights for the EU nationals in the UK.

Furthermore, the UK has been successful in instrumentalising the safeguards attached to freedom of movement that seek to protect member states from so called “rights abuse” by EU nationals. For example, homelessness is seen to be a sufficient condition for “rights abuse”, which thereby allows Britain to remove many EU nationals. A first likely target will be those Roma EU nationals visible in large British cities. After Brexit Day, Britain would be able to introduce additional requirements. This is likely to include removal of those with a criminal record as part of the transfer from EU to national immigration law. This transfer will undoubtedly also imply systematic administrative checks, and differentiation between wanted and unwanted workers. Ordinary EU nationals would thus become subject to the “hostile environment” to immigration that May has pursued since she was Home Secretary. Effectively, the NHS, employers, landlords, universities and banks would now need to formally check residence status of EU nationals, reporting those who do not have it. All of these points fly in the face of existing anti-discrimination norms (The Guardian 2017).

Ironically, if Brexit is forcing EU nationals to become “immigrants” in future, then naturalisation becomes the one key option for lowering the cost of the daunting insecurity for them in the UK, as well as for British citizens in the EU. A large

proportion of EU nationals in the UK never wanted to naturalise, but maybe they will now see it as a simple instrumental calculation. A study in 2007 found that only about a quarter of East Europeans expressed an intention to settle (Spencer et al 2007). Europeans made up only 11% of total naturalisations in 2016, despite the fact that the potential eligible population is in the order of millions. Put another way, the rate of annual naturalisation of EU nationals is under 10% of their annual net inflow. Now needing to secure their status, naturalisations by EU citizens have increased by a third from 2015 to 2016, and will clearly continue to increase as borders close and free moving transnational family options are rendered more difficult.

In this sense, Brexit can only increase immigration; over three million mobile and flexible EU citizens will be forced to choose to stay and settle, to become the “immigrants” Farage, May and others had said they were. The prospect of 3+ million overnight naturalisations without any emotional commitment to the country implies administrative chaos; the numbers that might stay permanently will certainly be far larger than it would have been. This is not a bad thing for diversity in the UK, its population structure, or its economy; far from it. But it is diametrically the opposite of what Leave voters wanted to see happening.

Conclusion

What may be the consequences down the road for Britain after Brexit? In terms of migration, the selection effects are already visible. Britain has committed an international public relations disaster; the best and the brightest are already considering their options elsewhere. The City is already haemorrhaging businesses and talents. UK universities have become less attractive and Brexit has tarnished their “world class” claims. Brexit will hit all kinds of industries and their personnel dynamics, albeit that the post-Brexit vote crash of the pound has been a boon for tourism and some services.

Britain too always had an advanced reputation for multi-ethnic, multi-racial, cosmopolitan diversity; this surely will change. The naked racialisation of the Brexit campaign has been a shock; especially the suspicion that the EU vote was driven substantially by anti-Muslim prejudice. EU movers will become visible “immigrants” like everyone else, and subject to the same draconian and iniquitous immigration regime as non-EU nationals. The labour market will be state controlled, through visas, quotas-based employment channels and bureaucratic logic, rather than market demand. Discrimination by nationality will return according to some colonial/racial hierarchy—in which we like Danes, are not so keen on Spanish, please no Romanians, and definitely not Turks. It is likely to be far less competitive or selective, and implies a huge amount of governmental red tape (and costs) to control and pattern something that was hitherto left to employers to determine via market selection. There may be some formal preference for UK nationals imposed in the job market—effectively state sanctioned discrimination against foreigners, in the name of some fictional nation in which less qualified, less motivated, and less worldly British workers always get the job.

This is all good news for Paris, Amsterdam, Frankfurt and Berlin. These locations will already sound hugely attractive to capital; free movers will follow. Many British abroad have been scuttling to adopt new nationalities. What about the global effects?

Here the UK faces a dramatic Scylla and Charybdis. To put into effect the kind of state controlled mechanisms on the labour market that might protect UK workers, improve their pay (relative to foreigners), or incentivise them to take up all the jobs they have been refusing to take – i.e., Theresa May’s peculiarly socialistic ideas of drawing the working class to the nationalist conservative side – clearly will kill the golden goose: the global neo-liberalism that has made Britain such an open, performative, yet inequitable economy, in the last two decades.

Since the socialist island option is highly unlikely – and very likely not at all sincere in Conservative Party circles – Britain may instead throw itself open to the four winds, making open trade deals with any one wanting access to its shores. Much has been made of how a post-Brexit “Global Britain” – the “Empire 2.0” mission of Boris Johnson and others (Andrews 2017) – would look to fill new demand by a competitive points based system for new immigration, on the model of Canada or Australia. Even leaving aside the naive analogy with the population structure of these small, highly diverse and capacious immigrant economies that are much better equipped at policing borders, there seems very little appetite for the mentality shift in British politics that a truly open “global” immigration policy based on competition for talent would entail. Brexiteers may talk the bravado of being open for global business, but they will balk at what this could mean in terms of population change. As Hix, Kaufmann and Leeper have shown recently (2017), in fact Brexit voters dislike extra-EU migrants rather more than so-called “EU immigrants”.

This leaves a dilemma; free movement of capital, goods and services necessarily entails the movement of people. For the UK to keep its present economy and position within the North Atlantic region and globally, the immigrant economy must persist, and demand must continue to drive it. Absent of regulated, legal EU migration, these structural necessities are likely to produce higher numbers of illegal, unregulated, low end migrants (something like the US today), through a proliferation of sordid but highly profitable illegal entry points—from Europe and beyond. British who see the UK glowingly as the 51st state should be careful of what they wish for: the US–Mexican border and the politics surrounding Latin American migration in the US is one of the least edifying migration systems in the world (Massey, Durand and Malone 2002; de Genova 2010). This “global” future is one that is the opposite of what Leave voters predominantly voted for: of even higher levels of foreign ownership of Britain, more migration, higher inequalities, much more off-shoring and partial exiting – for the richest few – and likely massive further political tensions among the less well off and “left behind”.

The new migrations which follow Brexit may thus yet be even more spectacular in their effects and consequences—unless the British economy collapses, and migrant demand with it, as it exits global trade agreements and capital takes flight. The dominantly positive effects of the well regulated EU migrations of the 1990s and 2000s, hinged on complementarity and positive selection during an era of economic success and social inclusion, might then be presented in a much better political light.

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