

As Brexit deadline nears

UK government intensifies attack on freedom of movement

By Margot Miller
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Ahead of its threat to withdraw the UK from the European Union (EU) in a “no-deal” Brexit on October 31, Boris Johnson’s government is ramping up its anti-immigration agenda.

Last month, Home Secretary Priti Patel announced that freedom of movement to and from the EU would end immediately on October 31 if no deal on the UK’s terms of exit had been reached by that date. Johnson campaigned for the Tory leadership contest pledging that the UK would leave with or without a deal on the scheduled leave date at the end of October.

Last week, Patel, while maintaining the government’s commitment to ending free movement, announced that the policy change was being deferred for three years and the government would revert in the meantime to the policy of Johnson’s predecessor, Theresa May. All EU nationals arriving in the UK between October 31, 2019, and the end of 2020 will be granted three-year temporary immigration status, known as European Temporary Leave to Remain (Euro TLR), after which they will have to apply for visas to work or study in the UK.

Announcing the turnaround, Patel said the regime post-October 31 would be “tougher.” “Ending free movement as it currently stands will allow us to take the first, historic steps towards taking back control of our borders,” he declared.

“In the future,” she continued, “[W]e will introduce a new points-based immigration system built around the skills and talent people have—not where they are from.” This echoes Australia’s draconian points-based immigration system, which discriminates in favour of wealthy applicants and those whose labour power can be most readily exploited by employers.

Last week, Johnson prorogued parliament to prevent any challenge to his no-deal Brexit plans from Remain-supporting MPs. This, however, put an obstacle in the way of abrogating free movement on Brexit day. The

government was warned that given the lack of time for a parliamentary debate and vote, it could face legal challenges, jeopardising a no-deal Brexit.

As the *Financial Times* noted, “[U]nder a no-deal Brexit, this [clampdown on freedom of movement] would have been difficult to implement quickly because EU law continues to apply until it is formally repealed in parliament.”

Prior to deferring the policy, the government planned to pass an Immigration Bill that would abolish freedom of movement. When it became clear such a bill could not pass by October 31, the government considered using provisions on the statute books under the European Union Withdrawal Act. This could have enabled restrictions on freedom of movement to be enacted without primary legislation.

The *Sunday Times* reported September 1 that “The government’s no-deal war cabinet—known as the XO committee—was told last week that doing so [ending freedom of movement on October 31] would result in ministers being taken to court, where they would have a 70 percent chance of losing.”

Despite reverting to May’s policy, chaos at the UK border threatens as the October deadline approaches. From the day the UK leaves the EU, a blue EU customs channel will disappear from UK ports and airports. All travellers will make a customs declaration via new red or green channels.

Many EU nationals wishing to work and live in the UK are already insisting that border control stamp the date of entry on their passports to have “physical endorsements.” Under new rules, only those who arrive before the end of October, and can prove it, are permitted to apply for longer-term residence in the UK.

The cessation of free movement, immediate or otherwise, will have a disastrous impact on the supply of labour in the UK, with similar repercussions on the continent. In the National Health Service, the UK’s biggest employer, 10 percent of employees are non-British EU nationals.

According to *Full Fact*, immigration to the UK countries was 202,000 in 2018, the lowest since 2009, due to uncertainties surrounding Brexit.

Brexit has created a profound sense of insecurity for the 3.6 million EU nationals currently residing in the UK. Many have been settled in the UK for decades. Mike Bohn, spokesman and co-founder of the 3million group, which represents EU nationals in the UK, said the introduction of “temporary leave to remain” would add “yet another immigration status.”

EU nationals arriving before October 31, 2019, regardless of when they came, were given only until 2020 to apply for settled status under the EU settlement scheme. Only a third have applied so far. Patel’s previous threat to end free movement within weeks caused panic, leading to a spike in applications.

With a backlog of 100,000 applications, of the 1 million already processed, only 64 percent were granted settled status. The other 36 percent achieved “pre-settled status” because applicants had been in the UK less than five years.

Residency is not secure, even for those granted settled status. The EU settlement scheme was passed as secondary legislation—meaning the government can change it without a parliamentary vote.

EU nationals rightly regard any government assurances of residency in the UK with scepticism. In 2018, the Windrush scandal erupted. The generation invited to the UK from the Caribbean after World War II to alleviate a labour shortage suddenly found, in 2002, that their legal status to reside in the UK was being challenged. Many were denied health care and benefits, lost jobs and were either threatened with deportation or deported. The government admitted to a figure of 63 people deported to countries where they had not lived since childhood.

The attack on freedom of movement will sharply escalate the official Tory government policy of creating a hostile environment for immigrants. This was epitomised by a campaign organised by then-Home Secretary Theresa May in 2013. May authorised lorries to drive through immigrant areas with billboards warning, “Go home or face arrest.” In 2016, 40,000 immigrants left the UK after receiving threatening letters from the Home Office.

Johnson’s reaction to the attempted Channel crossing from France in August by almost 100 refugees in small boats underlines the government’s determination to press ahead with its anti-immigration agenda. His immediate response to these desperate people, whose plight prompted such a hazardous journey, was to denounce them as “illegal” immigrants and threaten, “We will send you back.”

Johnson declared, “The UK should not be regarded as a place where you could automatically come and break the

law by seeking to arrive illegally. ... If you come illegally, you are an illegal migrant and I’m afraid the law will treat you as such.”

Home Secretary Patel contacted her French counterpart to prevent further attempts to enter the UK in this way.

A Home Office spokeswoman said, “We have three Border Force cutters [patrol boats] in the Channel and a joint action plan with France in place, including a coordination centre in Calais which assists with preventing illegal attempts to cross the border.

“Since January, we have returned more than 65 people who arrived illegally in small boats to Europe.”

In the same month, an Iranian woman disappeared while crossing the Channel to seek asylum on British soil, feared drowned. An Iraqi man drowned in waters off Belgium, also trying to make his way to the UK. According to media reports, he was equipped “only with an improvised floating device made out of plastic bottles and a single flipper.”

Opposition leader Jeremy Corbyn and the Labour Party are equally opposed to free movement of EU labour. In a January 2017 speech, Corbyn declared, “Labour is not wedded to freedom of movement for EU citizens as a point of principle. ...”

The Labour manifesto for the general election that year read, “Freedom of movement will end when we leave the European Union.” It committed the party to the “reasonable management of migration.” Making clear that immigration policy would be geared towards the needs of big business, it stated, “Working with businesses, trade unions, devolved governments and others to identify specific labour and skill shortages...we will institute a new system which is based on our economic needs, balancing controls and existing entitlements.”

The author also recommends:

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