



## UK's EU referendum

# Brexit means little for the rights of UK workers

Employers are not pushing for EU labour law to be repealed, despite what both sides say

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Trade unionists march in London © EPA

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Britain's impending referendum over its EU membership has turned into a battle of the myth-busters. Whenever the Remain campaign makes a claim about the economic risks of leaving the EU, the Leave supporters shoot holes in it. The Remain people dismember claims from their opponents with just as much glee. Yet one myth seems to have been allowed to go unchallenged by either side, presumably because it serves the purposes of both.

Some in favour of Britain leaving the EU, such as Patrick Minford, economics professor at Cardiff University's business school, [say the UK needs to reset its relationship \(https://www.e-elgar.com/shop/should-britain-leave-the-eu?\\_\\_weBSITE=uk\\_warehouse\)](https://www.e-elgar.com/shop/should-britain-leave-the-eu?__weBSITE=uk_warehouse) with the EU to "jettison excessive protection and over-regulation, notably in the labour market". Trade unionists who want to stay in the

EU, such as Frances O'Grady, general secretary of the Trades Union Congress, warn that “working people have a huge stake in the referendum because [workers' rights are on the line \(http://www.theguardian.com/politics/2016/feb/25/workers-rights-are-on-the-line-in-eu-referendum-warns-tuc\)](http://www.theguardian.com/politics/2016/feb/25/workers-rights-are-on-the-line-in-eu-referendum-warns-tuc)”. Both these claims give the impression that UK employment law would change significantly in the event of Brexit.

Both are almost certainly wrong.

For a start, the EU is not responsible for as many employment rights as you might think. The UK implemented the Equal Pay Act in 1970, before it even joined the EU. It already had sex and race discrimination laws too, according to the TUC, while its maternity leave exceeded the EU minimum of 14 weeks when that directive came in.

It is true that the EU has strengthened, expanded and updated these rights over the decades. It has also added new ones, such as the right to holiday pay, unpaid parental leave and equal treatment for part-time workers. Yet two of the biggest EU directives — the maximum 48-hour week and the agency workers' regulations — contained big loopholes or opt-outs for UK employers.

Indeed, Britain's labour market is the least regulated in the EU. According to the [OECD's employment protection index \(http://www.oecd.org/els/emp/oecdindicatorsofemploymentprotection.htm\)](http://www.oecd.org/els/emp/oecdindicatorsofemploymentprotection.htm), the UK comes in at 31 out of 34 rich countries. That begs the question of which labour market regulations the government would do away with, should the UK leave the EU. It is hard to imagine any government going into the 2020 election with “bring back sexism in the workplace” or “let's have fewer paid holidays” on their leaflets.

Employment lawyers say there could be some tinkering on the margins of discrimination or rules to protect outsourced workers but none foresees anything groundbreaking.

The truth is that most employers are not angling for these EU-related rights to be repealed. When I talk to companies, they usually complain about four employment issues: the [new higher minimum wage \(http://next.ft.com/content/2ae61f24-f2a9-11e5-aff5-19b4e253664a\)](http://next.ft.com/content/2ae61f24-f2a9-11e5-aff5-19b4e253664a) for people aged 25 and over; the “[apprenticeship levy \(http://next.ft.com/content/01daafe4-943c-11e5-b190-291e94b77c8f\)](http://next.ft.com/content/01daafe4-943c-11e5-b190-291e94b77c8f)”, a payroll tax for large companies; [restrictions on skilled migrant workers \(http://next.ft.com/content/0a1de5ae-be99-11e5-846f-79boe3d20eaf\)](http://next.ft.com/content/0a1de5ae-be99-11e5-846f-79boe3d20eaf) and the requirement for large companies to [publish their gender pay gaps \(http://](http://)

[next.ft.com/content/a76703fo-d0eo-11e5-831d-09f7778e7377](https://next.ft.com/content/a76703fo-d0eo-11e5-831d-09f7778e7377)). None of those has been forced on the UK by the EU; all are policies that have been dreamt up by the current Conservative government.

Similarly, trade unions and labour activists complain most loudly about the [growth of precarious work \(https://www.tuc.org.uk/sites/default/files/TUC%20final%20response%20to%20BIS%20consultation%20on%20zero-hours%20contracts.pdf\)](https://www.tuc.org.uk/sites/default/files/TUC%20final%20response%20to%20BIS%20consultation%20on%20zero-hours%20contracts.pdf) and the introduction of the [trade union bill \(http://next.ft.com/content/387713bc-ec5c-11e5-888e-2eadd5fbc4a4\)](http://next.ft.com/content/387713bc-ec5c-11e5-888e-2eadd5fbc4a4), which aims to make it harder for unions to strike. Yet as employment policy expert Richard Dunstan [points out \(http://labourpainsblog.com/2016/03/29/brexit/\)](http://labourpainsblog.com/2016/03/29/brexit/), these key battles over workers' rights are “wholly domestic”. Brussels has been no bulwark against them and a vote for Remain would do nothing to change them.

There is also the question of enforcement. Employment law in the UK is mostly enforced by employees taking their employers to tribunals. Yet the number of cases [has dropped about 70 per cent \(https://www.gov.uk/government/collections/tribunals-statistics\)](https://www.gov.uk/government/collections/tribunals-statistics) since 2013, when the government introduced fees for people who want to make claims. Whether you see this as an erosion of workers' access to justice, or as a means to spare employers from vexatious claims, the outcome is the same. Employment regulation has become less onerous for employers in practice, even though the law has not changed on paper. As Martin Warren, head of labour relations at Eversheds, wryly observes: “There's more than one way to skin a cat.”

A vote for Brexit on June 23 would have important implications for the labour market but that is because it would shake up immigration and trade. The impact on employment rights is a sideshow — no matter what the Leave and Remain campaigns may say.

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