

# Regulating for Globalization

Trade, Labor and EU Law Perspectives

## Brexit, Value, and Work

David Mangan (Maynooth University (Ireland)) · Wednesday, August 14th, 2019



### *Thinking positively*

‘Do or die’, the UK will leave the EU by end of October 2019. Since assuming the role of Prime Minister, Boris Johnson has made a number of [spending commitments including](#): £1.85 billion for hospital upgrades and equipment, 20,000 more police officers by 2022, more money for schools, and raising the higher tax rate (40%) from £50,000 to £80,000. While this ‘[boosterism](#)’ has attracted differing opinions, a plan for employment has been relegated to inference: if investment comes to the ‘turbo charged’ UK economy, jobs must follow. The plan does not differ whether there is a so-called orderly Brexit or not. Perhaps more than other politicians, Johnson seems to be overtly relying upon a [positive outlook](#) to bring about his desired goals. Given the dominance of rankings and ratings, how does one place a value on this plan? What do these plans say about

employment? There seems to be some level of faith that factors into an answer.

### ***The value of work***

Appraisals or surveys provide estimates of the value of items or property. Can we value work in the same way?

The 6<sup>th</sup> Annual Regulating for Decent Work conference was held at the International Labour Organization in July 2019. Pertinent to the present topic, [Mariana Mazzucato](#) delivered a [keynote address](#) which focused on her latest publication, *The Value of Everything*. Her talk prompts the question: how is work valued?

### ***Subordination of work***

Looking at plans for Britain outside of the EU, it seems work is an adjunct or secondary matter, with economic stimulus as the primary focus. This is not new. The UK legislative agenda from the 1980s illustrated not only a notable shift away from collective labour law, but also the embedding of employment regulation within macro-economic policies. Inspiration was drawn from Friedrich Hayek. He believed trade unions ‘[operated as uniquely privileged institutions to which the general rules of law do not apply](#)’. Since then, regulation in labour law has focused on facilitating commerce by minimising or removing restrictions on the competitiveness of businesses. This ethos influenced steps such as the introduction of a costly employment tribunal fee scheme which was subsequently struck down by the [UK Supreme Court](#).

### ***Integrated approach***

Engaging with employment as a contingent matter precipitates its own effects. The UK Government’s [Online Harms White Paper](#) illustrates. In its consultation, the Government asked several questions, including the following: *Question 3: What, if any, other measures should the government consider for users who wish to raise concerns about specific pieces of harmful content or activity, and/or breaches of the duty of care?*

The question posed assumes a particular pattern of online content in which an individual posts the impugned material to a platform operated by a company (such as a social media platform). The liability of intermediaries has been a subject of discussion. And yet, the idea that an employer could stand in such a place does not appear to have arisen in this White Paper.

### ***Online harms and work***

Commercial entities seeking to build up goodwill with consumers through the various media may incur risks in so doing. The dominant view of employers regarding, for example, social media is likely that of its business utility for public outreach.

However, members of the public may post to company-operated platforms using language that is vulgar, offensive, abusive, racist, homophobic, sexist, or threatening. These remarks may offend relevant legislation and/or contract clauses regarding safe work environments. Online platforms run by a company constitute extensions of the workplace. Consequently, these companies (likely unintentionally) wander into a territory of policing harmful speech on platforms utilized for customer outreach.

### *Value and decent work*

The consideration of the value of work is not a singular exercise. The workplace, in a networked environment, does not exist outside of the reach of online platforms. Recalling the [International Labour Organization's conference](#), the online environment adds to what constitutes decent work. Decent work is not only a matter of important considerations such as a living wage, but it is also about decency itself; for this is the issue the UK's Government's White Paper seeks to address.

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