Editorial

Political Parties’ Programmes: Examples of Governance against Human Rights?

Aurelia Colombi Ciacchi
Editor-in-Chief EJCL; Professor of Law and Governance, University of Groningen
A.L.B.C. Ciacchi@rug.nl

Even in the oldest and most stable Western European democracies such as in the UK and the Netherlands, some political parties seem to view international human rights as one of their fiercest enemies. Two contributions in a previous issue of EJCL¹ already mentioned the 2015 Manifesto of the British Conservative Party, which plans to scrap the Human Rights Act and replace it with a British Bill of Rights. Through the scrapping of the Human Rights Act, the Conservative Party explicitly intends to “break the formal link between British courts and the European Court of Human Rights”, and make the UK Supreme Court “the ultimate arbiter of human rights matters” in the country.²

The planned scrapping of the Human Rights Act is now put on hold until the Brexit arrangements are confirmed. On 24 January 2017, in the House of Commons, Justice Minister Sir Oliver Heald said: “We are committed to

reforming our domestic human rights framework and we will return to our proposals once we know the arrangements for our exit from the European Union.” He added it would take some time before a meeting is held with the Scottish justice minister to discuss repealing the Human Rights Act north of the border, as the government was prioritising Brexit. “I think it important for us to sort out the EU side of matters and the exit from the EU before we return to that subject,” he said.3

The Government’s plans to scrap the Human Rights Act have thus been shelved until after Brexit. Some commentators report that according to some sources, Theresa May is preparing to abandon the plans for a British Bill of Rights entirely, because Brexit will significantly strengthen the sovereignty of British courts.4

This allegation, however, does not seem to match with previous statements of Theresa May according to which the independence of British courts from the ECtHR cannot be achieved through Brexit: the UK would need to withdraw from the ECtHR. Indeed, Theresa May has been absolutely clear she does want to leave the Convention. In a speech of 25 April 2016, she said: “The ECtHR can bind the hands of Parliament, adds nothing to our prosperity, makes us less secure by preventing the deportation of dangerous foreign nationals – and does nothing to change the attitude of governments like Russia’s when it comes to human rights. So regardless of the EU referendum, my view is this. If we want to reform human rights law in this country, it isn’t the EU we should leave but the ECtHR and the jurisdiction of its court.”5

5 Home Secretary’s speech on the UK, EU and our place in the world, from: Home Office and the Rt Hon Theresa May MP, 25 April 2016. Retrieved 21 April 2017, https://www.gov.uk/government/speeches/home-secretarys-speech-on-the-uk-eu-and-our-place-in-the-world. Teresa May’s position is sharply criticized by Charles Falconer, who points out that “(t)he prime minister is wrong on every point (...), the Human Rights Act explicitly preserves parliamentary sovereignty (...); membership of the convention adds to UK prosperity (...); preventing the deportation of foreign terrorists because of what they may face on their return has not reduced our security, failing to stop homegrown Isis supporters going abroad and then returning to the UK is the much bigger threat to our security; and (...) if the UK leaves the convention that would be a green light for Russia to ignore any Strasbourg ruling it chose.” See C. Falconer, ‘Human rights are under threat – just when we need them most’. The Guardian