



HM Government

Review of the Balance of Competences between the United Kingdom and the European Union Fundamental Rights

Evidence: Individuals

July 2014

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The British Government review of the EU 'competences'

Concerning the Balance of 'competences' within the EU for British Citizens.

I am a British Citizen, who upon retirement, after service as a Police Officer with the Metropolitan Police in London took up the option to move to France in 1985, under EU law that permits free movement of EU citizens.

Under existing British law I lost my universal suffrage after 15 years residence in France

I believe that all British Citizens should have the right to representation in the Government of their Nation. This, in accord with the UN Charter of Human Rights and the proposal of the EU Citizenship Report 2013.

My Wife and I were born in the UK and worked there until my retirement in 1985, our two daughters are resident in the UK and I have economic links with the UK in as much as our state pension is paid from the UK and my Police pension is both paid and taxed in the UK. We are British passport holders and retain our British citizenship, yet are denied the vote.

If Britain, as a result of a Referendum based solely on the resident population of the UK were to pull out of the Union, a large number of British Citizens in the EU would face a difficult situation!

Individual did not provide permission to publish name

CONCERNING THE BALANCE OF COMPETENCE WITHIN THE EU FOR
BRITISH CITIZENS

I believe that all British citizens should have the right to representation in the Government of their Nation. This is in accord with the UN Charter of Human Rights and the proposal of the EU Citizenship Report 2013. The majority of EU countries accord this right, as does the United States of America, among others. It is vitally important that citizens' attachment to their country of origin be encouraged, wherever they may reside.

Individual did not provide permission to publish name

What evidence is there that the impact of:

- the Charter of Fundamental Rights of the European Union (“the Charter”);**
- the EU’s broader framework of fundamental rights has been advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?**

It is expensive to fund further education. In my experience UK employers have failed to honor female workers rights as part timers. Article 4 prohibition of degrading treatment (zero hours contracts). Article 8 Data protection (information on family). Article 15 Right to choose an occupation and right to work. Women are forced into low paid insecure work with few pension, paid leave rights. Article 20 Equality before the law, women are denied access to legal advice to protect their rights. Article 21 Discrimination is rife, particularly article 23 between men and women and with ownership of property 21, that means women are denied legal help if they own their home. Women who make a living out of doing over other women know this...

What evidence is there on whether the Charter is being interpreted and applied in line with the general provisions set out in Title VII of the Charter?

Employers are not implementing The Charter. Universities are not implementing the Charter. How do you make employers aware of the penalties of non compliance? How many UK employers have been prosecuted for failing to honour The Charter VII.

What evidence is there that the impact of ECHR case law, as it is given effect through the EU's fundamental rights framework, has been advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

Evidence in the number of prosecutions of bad employers who deny women their right to work, right to privacy and right to equality.

What evidence is there that the impact of the Fundamental Rights Agency has been advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

Too soon to tell, hopefully it provides information and legal help to those at risk. It is often those on lowest incomes who are most at risk of further unfair treatment or torture by employers or neighbours.

What evidence is there of whether the Fundamental Rights Agency demonstrates value for money

Less tribunals as individuals settle out of court. Less unemployment as people are treated better by employers. Less poverty as employers break the rules with zero hours contracts

What evidence is there to demonstrate the advantages or disadvantages of the Fundamental Rights and Citizenship Programme for the UK, and individuals within the UK

If the rights were in evidence, the UK would be a nicer place for women to live and work in. Better information need to be made accessible to people on their rights.

What evidence is there that the Fundamental Rights and Citizenship programme provides value for money?

Raised public awareness of rights to work, privacy, etc. Early intervention to avoid needless suffering or abuse. Keep people in work and contributing to economy.

Do the projects funded under the Fundamental Rights and Citizenship programme help the programme meet its stated objectives?

No, they are insufficiently funded. The programmes should aim to inform people of their rights and prosecute those who violate them for money or gain be they employers or other women having affairs at work with married family men.

What evidence is there that the impact of the EU's accession to the ECHR will be advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

Better European communication between articles (the theory) and (in practice) the European Court of Human rights. The European Union membership is very expensive, could costs be reduced?

What evidence is there that the impact of the Rights, Citizenship and Equality Programme will be advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK

Economic - less conflict, forced unemployment, torture. Social - improved communications. Legal - better access to legal representation

What other future challenges and opportunities in respect of EU fundamental rights are relevant to the UK?

Corruption in the Police and MPs, jeopardises true equality in everyday practice: pay and security of work free from degrading treatment by employers (zero hours, forced holiday and forced unemployment)

How could action in respect of fundamental rights be taken differently – including nationally, regionally, or by other international organisations – and how would this affect the United Kingdom?

I think religion is a subversive violator of women's soci economic outcomes. Catholics with high grades still find it hard to get into positions of authority. Women are constantly undermined by the heartless and bitchy behaviour of other women at work, at home. I think this area requires investment in research to find out how discrimination could be removed or prevented.

Is there any evidence of fundamental rights being used indirectly to expand the competence of the EU? If so, is this advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

This is an advantage to the credibility of the EU, greater fairness linked to ability not bullying is a good thing.

Is there any other evidence in the field of EU fundamental rights which is relevant to this review?

Article 24 Rights of the child to see both parents and have regular contact. I support this, however the level of manipulation of men by vindictive older women or spiteful younger women jealous of the woman with the mans child is enormous for financial gain. The area of step parent cruelty and abuse requires better definition with punishment applicable for those found guilty of perverting the childs best interest in the pursuit of theri own financial gain. Childrens rights are being violated in step families.

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What evidence is there on whether the Charter is being interpreted and applied in line with the general provisions set out in Title VII of the Charter?

Don't know. Let us have a referendum on Europe and the picture might be clearer.

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Do the projects funded under the Fundamental Rights and Citizenship programme help the programme meet its stated objectives?

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How could action in respect of fundamental rights be taken differently – including nationally, regionally, or by other international organisations – and how would this affect the United Kingdom?

Action could be taken by giving British citizens ONLY a referendum on Europe.

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Do the projects funded under the Fundamental Rights and Citizenship programme help the programme meet its stated objectives?

Fewer knowledge, awareness and invoking of these basic fundamental rights.

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Fewer knowledge, awareness and invoking of these basic fundamental rights

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has been advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

Just leave it be. You do not here anyone else in Europe complaining about it.

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The United Nations Declaration of Human Rights states as follows. Link:- <http://www.un.org/en/documents/udhr/>

Article 21.

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures. The British government in a "racist" approach has denied these basic rights to many of its citizens who live in the EEC.

What evidence is there on whether the Charter is being interpreted and applied in line with the general provisions set out in Title VII of the Charter?

The British government has not provided health care or voting rights to many of its citizens who live in Europe albeit temporarily.

What evidence is there that the impact of ECHR case law, as it is given effect through the EU's fundamental rights framework, has been advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

Nearly 2 million British Citizens live in Europe, many more travel or stay partially and without these basic rights they would be severely disadvantaged.

What evidence is there that the impact of the Fundamental Rights Agency has been advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

2 million British Citizens living in the EEC. They are more protected by the EEC than their own government in Britain.

What evidence is there of whether the Fundamental Rights Agency demonstrates value for money?

You should not put a value on these values - they should be inalienable.

What evidence is there to demonstrate the advantages or disadvantages of the Fundamental Rights and Citizenship Programme for the UK, and individuals within the UK?

No wars in Europe.

What evidence is there that the Fundamental Rights and Citizenship programme provides value for money?

Ridiculous to try and value this in monetary terms. The NHS could not be valued in this way.

Is there any other evidence in the field of EU fundamental rights which is relevant to this review?

The British Government is disenfranchising many thousands of its own citizens who live in Europe - whilst still taxing many of them.

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It provides protection for individuals from state brutality - the fact that very little brutality has taken place is evidence of the beneficial effect of the protection.

What evidence is there on whether the Charter is being interpreted and applied in line with the general provisions set out in Title VII of the Charter?

Unfortunately the ECHR is something that 'must be taken into account' and is not fundamental law (unlike in more enlightened countries like Bosnia) as a result, Judges can choose to disregard human rights if they wish.

What evidence is there that the impact of ECHR case law, as it is given effect through the EU's fundamental rights framework, has been advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK? - Please provide your response in this text box.

Case law has benefitted the court's favoured groups - mainly women and homosexuals. Now that men are trying to get equal rights, there is talk of scrapping the human rights route.

What evidence is there that the impact of the Fundamental Rights Agency has been advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

There is huge discrimination in favour of women and homosexuals in this country as a result of favourable treatment and court protection and prejudice as a result of using the human rights act. It is now time that men also stood up and used the laws - before it is too late.

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The starting point for such discussions has to be what were the perceived purposes of the Charter at the time of its drafting?

The EU Charter of Fundamental Rights was originally proclaimed as a political declaration at the end of 2000 at a European Council meeting in Nice. It is divided into six sections: Dignity, Freedom, Solidarity, Equality, Citizenship and Justice, and includes such subject matters as data protection of persons and workers' social rights. The draftsmen's core focus was on developing a Charter that would transparently outline the rights applicable at EU level, which would thereafter become more visibly, and beneficially accessible, to citizens residing within EU States. The European Council's conclusive statements described the Charter as "combining in a single text the civil, political, economic, social and societal rights hitherto laid down in a variety of international, European or national sources". (Thereby highlighting their 'mission statement').

However the Charter was given very little recognition for nine years beyond its acknowledgement as a Declaration. The Court of Justice of the European Union rarely referred to it, and its existence had no effect on the outcome of any cases. Between the period of 2000 and 2009 the Charter appeared to have no legal implications and was never used in a controversial manner, rather matters of human rights concerns in the EU continued to be governed by general unwritten principles. (With the preposition being that most challenges within European States were being instigated using international instruments, such as the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms.)

This then changed. The Treaty of Lisbon which came into force on 1st December 2009 changed the legal landscape of human rights protection within the European Union. At Article 6(1) of the Treaty on the European Union it states:

The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties.

As a standalone instrument, there are several shortcomings of the Charter, for example, as Dorota Leczykiewicz recognises: 'the Charter does not deal with the relationship between the old methods of protecting human rights in the EU and the post-Lisbon arrangement.' (The EU Charter of Fundamental Rights and its effects: The Constitutional Law Group, 2011) It is clear that the Charter

does not supersede 'general principles of law' which have been protecting human rights in EU law since the earlyseventies.

While the Charter did not physically form part of the Treaties, its reference can be attributed as having the same status as such. Adopting such a position, acknowledgement should therefore be given to the Charter as having 'Treaty like qualities', similar to primary law, and should therefore equally form part of the concept of 'the Treaties' as referred to by the European Communities Act 1972, now amended by the European Union (Amendment) Act 2008 (and would consequently be given legal effect in accordance with section 2(1) of the 1972 Act).

However this was changed by the UK deciding to add a protocol to the Treaty of Lisbon which was intended to regulate the effects of the Charter within their domestic legal orders.

These points are explored further by Dorota Leczykiewicz "Effective Judicial Protection" of Human Rights After Lisbon (2010) 35 European Law Review 326-348, and The Charter of Fundamental Rights and Member States' Derogations from Internal Market Obligations, in PM Huber and K Ziegler (eds), The EU and National Constitutional Law (2011).

In itself, this history, as to the path of the Charter, presents several disadvantageous complexities; namely those in relation to the expansion of the EU into areas of social-economic and social-political concern. This growth in the EUs remit presents the UK with a Constitutional complexity whereby the Sovereignty of Parliament in such areas is affected by the special status the European Union's institutions enjoy (in terms of the European Communities Act 1972 s 2).

What evidence is there on whether the Charter is being interpreted and applied in line with the general provisions set out in Title VII of the Charter?

The UK, as a democracy that respects the importance of such constitutional principles as the rule of law, and the independence of the judiciary, rarely requires enforcement of the Charter.

Where enforcement is needed, evidence suggests that there is little-to-no enforcement of the provisions by the European Commission across the board for Member States. The Commission's credibility was also affected last year by their 'threats' to Croatia pertaining to their extradition laws, which were subsequently not enforced. (EU threatens Croatia with sanctions. DW 20/09/2013)

Article 7 of the EU's recent Lisbon treaty enables the Commission to enforce sanctions against Member States for human rights violations. Alternative, in

cases of serious violation, the Commission can even revoke their voting rights. Such powers form part of the Commission's key enforcement powers against States who violate fundamental human rights principles.

However the reality of such is that the Commission refuses to execute such powers unless it is the final option of last resort. In the words of Goldston: "It's never been used and it most likely never will be used because it's formulated in such a way that the bar is set so high...Everyone's shying away from it because they feel it's too much. But there really isn't anything else." (Human rights: Is the EU failing one of its main missions? Global Post: 20 December 2013)

This insistence by the Commission on not executing these powers significantly limits its powers of enforcement, and in turn its ability to achieve the primary objectives of the Charter highlighted above (see Question 1).

In terms of the UK, the Charter presents the following benefits/advantages:

The Charter encourages good business practices by enforcing economic and social rights that are not contained in the Council of Europe's Convention on Human Rights. Such examples include the right to good administration and workers' social rights, including the right to strike.

The Charter assists the UK in terms of responding to the challenges of new technology and manufacturing, by including articles on bioethics.

The Charter assists UK individuals by highlighting rights pertaining to the protection of individual's personal data.

The Charter also covers the political rights of citizens of the EU, which the Council of Europe Convention does not.

The Charter benefits individuals by highlighting which fundamental rights will be protected and accessible for individuals living within the EU (thus making the rights more visible).

The Charter benefits the public sector by providing the UK institutions and bodies with a set of standards against which they will be measured, in terms of their own performance. (This benefit can equally be applied to the UK's wider performance in implementing EU law into national law.)

In terms of the UK, the Charter presents the following disadvantages:

Despite the provisions attached by the UK to the Charter, there is still potential to undermine national sovereignty, as the controversial effect of such laws is essentially an extension of the EU's remit.

Within the context of the broader EU framework of fundamental rights there are further disadvantageous considerations to take into account. The Charter creates a host of rights which seeks to further limit the UK's ability to amend, develop and progress economic and social rights; thus creating more restrictions, and making it harder for the UK's Government to respond to the needs of domestic businesses and the British people at national level.

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However the reality of such is that the Commission refuses to execute such powers unless it is the final option of last resort. In the words of Goldston: "It's never been used and it most likely never will be used because it's formulated in such a way that the bar is set so high...Everyone's shying away from it because they feel it's too much. But there really isn't anything else." (Human rights: Is the EU failing one of its main missions? Global Post: 20 December 2013)

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The accession of the European Union to the European Convention on Human Rights was hailed as constituting a major step in the development of human rights in Europe.

The reasons for the accession were highlighted as:

-The ECHR offers protection of fundamental civil and political rights and provides for an enforcement for such through the European Court of Human Rights in Strasbourg. (Thus creating a more enforced focus on human rights and the rule of law when the EU considers matters of economic and political concern.)

-There was a need to unify the two systems in terms of the obligations both the Council of Europe and European Union create for their Member States. However in addition to this, all EU Member States are also party to the ECHR, even though, at the time the EU itself was not (despite the fact that the EU was founded on the respect for fundamental rights). This divergence between the European Union and Council of Europe could be rectified by the EU becoming a party to the Convention, and consequently subjecting its

institutions to an obligation to respect the requirements of the European Convention of Human Rights.

-The accession can be viewed as strengthening the human rights protection available for European citizen by subjecting the European Union's institutions to the same level of independent criticism as Member States who are party to the ECHR (thereby closing the gap in legal protection by affording European citizens the same protection vis-à-vis)

These three reasons provide three key advantages to the union between the EU and the ECHR.

The disadvantages include an overlap in the self-promotion activities of the EU in discussing matters of social concern. While the EU has agreed to observe the requirements of the ECHR, the EU's work through the FRA and RCE programmes has, in places, replicated the work of the CoE in matters of social policy concern.

What evidence is there that the impact of the Fundamental Rights Agency has been advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

Arguments are often, and frequently, advanced by the Fundamental Rights Agency that they are leading the way in legal and social research into fundamental human rights. The FRA self-proclaims their mission statement to be to "engage in legal and social science research to pinpoint practices within the EU that show promise in their adherence, promotion and respect for fundamental rights and to identify areas where there remains work to be done to meet internationally accepted standards."

The FRA identifies some of their leading research projects as being:

-Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity

-FRA survey on gender-based violence against women

-Political participation of persons with disabilities

-Severe forms of labour exploitation

-Complaints, Legal Assistance and Rights Information Tool for You

-Children and justice

All of these areas carry significant CoE ECHR components and considerations alongside their EU activities.

In terms of the UK, advantages of the FRA include:

- Support for a number of local initiatives. Such as:
- Health and Community Service Reporting
- Workshops on Equality and Diversity
- Fundamental rights conferences in the UK for the public sector, employers and businesses
- National surveys, such as the FRA's 'Discrimination and hate crime against Jews in EU Member States: experiences and perceptions of antisemitism'
- UK campaigns to raise awareness, such as those in Herefordshire, where the Council and the Primary Care Trust worked together on promoting equality policies across all public services in the region, through public campaigns.

In terms of the UK, disadvantage of the FRA include:

-The work of the FRA has had little impact, or measurable benefit on UK policy, when compared to other EU Member States. Several significant publications have come from the FRA that have prompted political and legal change in other Member States, such as those in relation to religious, racial and sexual discrimination. However such benefits are less measurably tangible in the UK.

What evidence is there to demonstrate the advantages or disadvantages of the Fundamental Rights and Citizenship Programme for the UK, and individuals within the UK?

The UK has interpreted such as programmes that promote the respect of fundamental rights, fighting against racism, xenophobia and anti-Semitism and promoting better interfaith and intercultural understanding and improved tolerance.

The advantages of such to the UK are that there is a greater transparent awareness of these fundamental human rights considerations.

What evidence is there that the Fundamental Rights and Citizenship programme provides value for money?

See Question 8 below.

With a total budget of €10.9 million, it is somewhat difficult to see the benefits that such funding can bring to the UK, particularly in times economic hardship. The majority of the funding appears to be available for self-promotion activities, which are largely focused on civil rights. These activities are already covered by the Council of Europe and the European Convention of Human Rights. Such funding runs the risk of repeating/overlapping with the work of the CoE.

Self Promotion Activities:

The programme appears more focused on self-promotion, and raising the profile of the European Union's activities in this area. Such programmes eligible to receive funding include:

- Information on where the EU Charter of Fundamental Rights applies and where to turn to if fundamental rights are violated.

- Awareness-raising about Union citizenship and the rights attached to it and identification of obstacles to their effective exercise.

- Networking sessions for lawyers.

- Awareness-raising, information and dissemination.

With regards to these other activities, raising awareness of the Charter in itself will not achieve a fundamental rights European Utopia.

Do the projects funded under the Fundamental Rights and Citizenship programme help the programme meet its stated objectives?

Combating different forms and manifestations of racism and xenophobia.

- Fighting homophobia: Enhanced/improved understanding and tolerance.

- Data protection and privacy rights.

These idealistic programmes are beneficial and it is not denied that in some European States these programmes are needed for social advancement. However in these areas, in the UK, there are already sufficient measures in place to safeguard individuals against violations.

What evidence is there that the impact of the EU's accession to the ECHR will be advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

See above (Question 3) as to the wider benefits of the EU's accession to the ECHR, and the advantages such creates for both UK and EU citizens.

In terms of UK benefits:

Standards are streamlined: the accession of the EU to the ECHR streamlines expectations individuals can come to hold of all Member States as to their rights on a day to day basis. (In terms of a European citizen's political, economic and civil activities.)

In terms of UK disadvantages:

Further limits the competence of the UK Government (particularly in areas of economic growth and political concern).

Disadvantages also include the significantly financial burden such brings to the UK. Through forcing businesses and the public sector to adopt a new host of political terms in defining fundamental rights which they already largely adhere to when compared to other Member States.

What evidence is there that the impact of the Rights, Citizenship and Equality Programme will be advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

Given the UK's entrenched adherence to the rule of law, democratic principles, separation of power, and agreement to the European Convention of Human Rights through the Human Rights Act 1998, few advantages are perceived to be brought to the UK in terms of protecting fundamental human rights. By contrast, perceived advantages could include greater awareness of the work of the European Union and the Charter in itself.

How could action in respect of fundamental rights be taken differently – including nationally, regionally, or by other international organisations – and how would this affect the United Kingdom?

A UK Bill of Rights that highlights the unwritten principles that the UK already adheres to.

Is there any evidence of fundamental rights being used indirectly to expand the competence of the EU? If so, is this advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK? - Please provide your response in this text box.

In addition, see the above responses:

The EU would view the Charter as being a legal and political safeguard for the fundamental freedoms of EU citizens.

However, by contrast, the Charter creates a host of new rights which seek to further limit the UK's ability to amend, develop and progress economic and social rights.

These rights can be used to create more restrictions on the United Kingdom's competency to legislate in areas of national interest. Such also makes it harder for the UK's Government to respond to the needs of domestic businesses and the British people at national level.

Is there any other evidence in the field of EU fundamental rights which is relevant to this review?

N/A

Anonymised – individual did not provide permission to publish name

Having lived most of my life in the UK, and still paying the majority of my taxes in the UK - as an ex civil servant - I believe I should continue to have the right to vote in the UK , even after an arbitrary 15 years. The UK will still take my tax! No taxation without representation.

Individual did not provide permission to publish name

“Concerning the Balance of ‘competences’ within the EU for British Citizens.

”I believe that all British Citizens should have the right to representation in the Government of their Nation. This in accord with the UN Charter of Human Rights and the proposal of the EU Citizenship Report 2013.”

Furthermore I fail to understand why the Government is acting in this arbitrary manner. It prides itself on being in power in the "Mother of All Parliaments and Democracy" but it does little to comply with this statement. This matter is a National disgrace and should be addressed.

XXXX

Individual did not provide permission to publish name

“Concerning the Balance of ‘competences’ within the EU for British Citizens.

”I believe that all British Citizens should have the right to representation in the Government of their Nation. This in accord with the UN Charter of Human Rights and the proposal of the EU Citizenship Report 2013.”

XXXX

29th October 2013

Individual did not provide permission to publish name

Concerning the Balance of 'competences' within the EU for British Citizens.

I believe that all British Citizens should have the right to representation in the Government of their Nation. This in accord with the UN Charter of Human Rights and the proposal of the EU Citizenship Report 2013. Please note that NOT ALL British citizens holding a valid UK Passport elect to remain in another EU country as retirees. Some, such as my husband, were sent by their company to work in other EU States. If they refused they were no longer acting in compliance with their signed company contract. This is an argument which is never aired.

Return to the UK upon retirement was impossible because of the rising discrepancy in the cost of housing between the relevant States. Notwithstanding we still have strong ties to the UK because we are of British nationality and have family ties going back generations, in addition to financial connections through private and state pensions. What happens in Britain affects us PROFOUNDLY.

Please listen to us and, at the very least, give us your reasons for denying us full UK nationals' rights. Our ancestors didn't fight and die for voting rights just for our current government to deny us these. What's more YOU are our party of preference.

Most sincerely

XXXX

Individual did not provide permission to publish name

To whom it may concern

I believe that **all British Citizens** should have the right to representation in the Government of their Nation. This in accord with the UN Charter of Human Rights and the proposal of the EU Citizenship Report 2013.

In particular I find it extraordinary that in times of financial austerity, we British citizens who have exercised our right to live outside the UK but remain within the European Union, are seemingly to be cast adrift by our own Government, **to whom I continue to pay taxes**, simply because we choose to live beyond the physical shores of the UK.

I also find it extraordinary that we expats have no representative in Government, unlike the French who have a number of MP's and also a government minister to look after their interests.

Perhaps the UK Government should consider the implications if, in despair, we all decide to return to the UK !! The consequences would be most "interesting".

Yours faithfully

XXXX

A British Subject resident in France

XXXX

Individual did not provide permission to publish name

“Concerning the Balance of ‘competences’ within the EU for British Citizens.

I believe that all British Citizens should have the right to representation in the Government of their Nation. This in accord with the UN Charter of Human Rights and the proposal of the EU Citizenship Report 2013.

I have lived in France since 1997 and up until the last election have always voted in the UK General Elections. I have since lost the right to participate in this election as I have been out of the UK for over 15 years. I have not since gained the right to participate in the elections of any other European nation state.

I am appalled that as an adult, living and working in Europe, I am denied one of the fundamental human rights of modern Western democracies. Why is there no representation for Britons living and working in other countries of the EU?

Regards
XXXX

Individual did not provide permission to publish name

Dear Sir or Madam,

I believe that all British Citizens should have the right to representation in the Government of their Nation. This is mandated not only as a European Union Fundamental Right but as a United Nations Declaration of Human Rights.

Article 21 of the United Nations Declaration of Human Rights clearly states:

- (1) Everyone has the right to take part in the **government of his country**, directly or through freely chosen representatives.
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

While any Review of the Balance of Competences between the United Kingdom and the European Union Fundamental Rights, the BOC should be aware that, in the vital matter of participation in the government of the UK by the right of voting, the European Union Fundamental Rights merely mirrors the rights set out in the United Nations Declaration of Human Rights that the United Kingdom is a signatory too.

These rights extend to all British Citizens, British citizens that are British passport holders and there are no exemptions at all that depend on where that British Citizens lives or works. In other words all British passport holders has the right to vote under universal and equal suffrage, without time limit, for their government and has the right of equal access to public service in his country, i.e. health, law and protection.

Yours Sincerely,

XXXX

XXXX

XXXX

France

Individual did not provide permission to publish name

Concerning the Balance of 'competences' within the EU for British Citizens.

"I believe that all British Citizens should have the right to representation in the Government of their Nation. This in accord with the UN Charter of Human Rights and the proposal of the EU Citizenship Report 2013."

I am making the above statement as a British expat currently resident in France with children and grandchildren living and working in the UK. My pensions are paid in the UK, which is the country of my birth, my father's, my grandfather's and generations before them.

I will soon lose my right to vote in the country of my citizenship because of the 15 year rule and I have no elected representation in the UK parliament to look after my rights as a British citizen living abroad. Voting and having elected representation should be part of my basic human rights in a democracy.

XXXX
XXXX France.

XXXX

Individual did not provide permission to publish name

Concerning the Balance of 'Competences' within the EU for British Citizens

I believe that all British Citizens should have the right to representation in the government of their Nation. This is in accord with the UN Charter of Human Rights and the proposal of the EU Citizenship Report 2013.

XXXX

British Citizen living in France

Anthony Lea

I am 74 years old – during all of this period I did not draw any benefits. I served for 38 years in the Royal Navy and payed my taxes – and continue to pay taxes in the UK.

“Concerning the Balance of ‘competences’ within the EU for British Citizens.

”I believe that all British Citizens should have the right to representation in the Government of their Nation. This in accord with the UN Charter of Human Rights and the proposal of the EU Citizenship Report 2013.”

Brian Cave

What evidence is there that the impact of:

- the Charter of Fundamental Rights of the European Union (“the Charter”);
- the EU’s broader framework of fundamental rights has been advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

If the spirit of the Charter was fully mastered by the UK Government it would be most helpful -Unfortunately it is not.

What evidence is there on whether the Charter is being interpreted and applied in line with the general provisions set out in Title VII of the Charter?

As above -in some respects it isn't

What evidence is there that the impact of the Fundamental Rights Agency has been advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

It would seem that it is assumed that the UK adheres to the spirit of the Human Rights Charter in every respect- It does not.

What evidence is there to demonstrate the advantages or disadvantages of the Fundamental Rights and Citizenship Programme for the UK, and individuals within the UK?

Herein lies the quandary - If the Human Rights principles were adhered to all would be fine.

How could action in respect of fundamental rights be taken differently – including nationally, regionally, or by other international organisations – and how would this affect the United Kingdom?

Articles 41 and 45 need to be taken seriously by the UK. The impact of the Charter in respect of Articles 41 and 45 is largely ignored by the British Government regarding the rights of expatriate Britons within the EU. Administration by the UK Government of the laws relating to fairness is inadequate.

British Pensioners should be treated in the same manner (impartially and fairly) whether they live in the UK or in any other country within Europe. Freedom of Movement demands a level playing field across the EU. This does not happen with regard to the Winter Fuel Payment - nor in the costs of Passports. Pensioners need to be able to move freely without hindrance of anti-sympathetic feeling from the homeland of Britain. This does not happen.

Is there any other evidence in the field of EU fundamental rights which is relevant to this review?

As I say - British expatriates within the EU need a/ Uniformity of treatment by the UK across the whole of the EU, b/ The right of representation to the British Government.

(profound apologies - a previous message was sent incomplete - pressed the send button prematurely!)

From Pensioners Debout! (Stand up!) France.

Introduction - I manage a web site in contact (via our publicity officer - copied in above) with managers of other web sites, online journals across Europe and indeed the world. My information and that of co-workers appears in internet outlets across France, Spain, Portugal, Cyprus, and to a lesser extent in Belgium, Denmark, Italy, Germany and elsewhere to over 60 countries.

It is linked in with the web site run by the British Association in France www.votes-for-expat-brits.com and to other groups with a more general concern.

Concern about this review on Fundamental rights. It does not seem to apply directly to the fundamental rights of the British Citizens resident in the EU beyond the UK.

This makes answering of the questions as posed difficult.

Only question 14 which addresses 'any other points' seems relevant.

14 Is there any other evidence in the field of EU fundamental rights which is relevant to this review?

To that end I append the information below which has been circulated to all our contacts.

HUMAN RIGHTS - a wider view

The United Nations Declaration of Human Rights states as follows.

Link:- <http://www.un.org/en/documents/udhr/>

Article 21.

- (1) Everyone has the right to take part in the **government of his country**, directly or through freely chosen representative
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures

Surely one's National State association is that of which you are a citizen; where your family and cultural links exist and possibly also (especially so with pensioners) your economic links.

The EU and human rights. See link http://www.europarl.europa.eu/charter/pdf/text_en.pdf

The EU Charter of Human Rights interprets the UN Declaration from the viewpoint of European Citizenship. The above Article 21 of the UN

Declaration in that EU Charter is interpreted as referring to voting rights of European citizens to the European Parliament and to local Municipal elections. It omits to observe that Nationals in the EU should be represented in their national parliament.

Nevertheless, the UN Charter says that you have a right to be represented in the Government of your country!

Added to this - The **EU Citizenship Report 2013** notes in KEY ACTION 12,

“To propose constructive ways to enable EU citizens living in another EU country to fully participate in the democratic life of the EU by maintaining their right to vote in national elections in their country of origin.”

Link :- http://ec.europa.eu/commission_2010-2014/reading/factsheets/citizenship-report/

The British Citizen resident in the EU should enjoy a permanent Right of Representation in the British Parliament. This is denied after a period of 15 years non residence.

This weakens the influence of Britain in Europe.

If you want information please contact - Brian Cave XXXX

Brian Edwards

Dear Sir/Madam

“Concerning the Balance of ‘competences’ within the EU for British Citizens.

For 50 years I have paid and still continue to pay taxes of various types in England. I have voted for the British government, receive pensions from England, have savings and family in England but now it is proposed to disenfranchise me from receiving benefits due to research that is economical with the truth and a 15 year limit on voting. This is not justice or democracy!

I believe that all British Citizens should have the right to representation in the Government of their Nation. This in accord with the UN Charter of Human Rights and the proposal of the EU Citizenship Report 2013.

Yours faithfully

Brian Edwards
XXXX

David Sneath

What evidence is there that the impact of:

- **the Charter of Fundamental Rights of the European Union (“the Charter”);**
- **the EU’s broader framework of fundamental rights has been advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?**

Already in the field of state immunity and disability discrimination, changes are occurring that benefit individuals. I refer to recent decisions of the national EAT and CJEU. Governments and businesses will face a marginally higher burden paying compensation in cases where there might not have previously been a remedy.

What evidence is there that the impact of ECHR case law, as it is given effect through the EU's fundamental rights framework, has been advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

tend to benefit at the expense of the state or business. ECHR case law is influenced by a different legal philosophy to that which has informed the Common Law. It is principle and not outcome based. So it is right to convict the policeman who uses threats to secure the release of a kidnap victim. I suggest that UKG either shuts up or gets out if this philosophical difference is a show stopper.

What evidence is there of whether the Fundamental Rights Agency demonstrates value for money?

Seems a daft question since it is impossible to put a value on Fundamental Rights and their enforcement.

What evidence is there that the Fundamental Rights and Citizenship programme provides value for money?

Probably none but any programme that promotes fundamental rights is desirable. Many local nationals overlook them in their discourse.

What evidence is there that the impact of the EU’s accession to the ECHR will be advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

Again it will benefit individuals at the expense of others. Seems you can't have the EU without the ECHR.

How could action in respect of fundamental rights be taken differently – including nationally, regionally, or by other international organisations – and how would this affect the United Kingdom?

The UK could have its own written constitution and bill of rights but the Supreme Court is likely to look to ECHR jurisprudence when interpreting them. It could not practically be required not to. The law is unlikely to go

backwards and say eg that it is ok to discriminate in certain cases where the protection is currently absolute.

Is there any evidence of fundamental rights being used indirectly to expand the competence of the EU?

This can be said of CJEU jurisprudence on the relationship between directives and fundamental rights.

Is there any other evidence in the field of EU fundamental rights which is relevant to this review?

We would not have advanced in the field of discrimination law without CJEU intervention to remove obstacles to access to justice such as financial limits.

The Balance of Competences Fundamental Rights Review examines the balance of competences between the UK and the European Union on fundamental rights.

The exam question from the Ministry of Justice:

The Balance of Competences Review was announced by the Foreign Secretary William Hague in July 2012 to examine the balance of competences between the UK and the European Union.

The Review is an audit of what the EU does, and how it affects government and the general public in the UK. This piece of work will deepen our understanding of EU membership, and help shape the UK's policies in relation to the EU.

The Balance of Competences Fundamental Rights Review examines the balance of competences between the UK and the European Union on fundamental rights.

Fundamental rights are protections or guarantees for individuals that are built into the EU's legal system. They set out basic freedoms and rights that anyone can expect, such as the right to freedom of expression and freedom to pursue a trade or profession.

We are seeking evidence from lawyers, non-governmental organisations and the public, on the impact of this competence on their own area of expertise.

The commitment from the Ministry of Justice is to open publication of the evidence provided:

We intend to publish your response and the name of your organisation unless you ask us not to (but please note that, even if you ask us to keep your contribution confidential, we might have to release it, for example, in response to a request under the Freedom of Information Act). We will not publish your name unless you wish it to be included.

Please base your response on answers to the questions set out in this call for evidence.

Acknowledgment: The witness thanks the Ministry of Justice for the opportunity to contribute to its audit and particularly in regard call for evidence from the general public in the UK. The witness also thanks MoJ for the promise to publish the evidence delivered up in this call for evidence, as opposed to publishing a summary of the evidence and/or a "government response" to a consultation.

In particular the workshops that MoJ has facilitated brought to life and gave focus in the period running up to the celebration of the universal declaration of human rights, sixty-five years ago. It would be constructive in future workshops to have participation from HMCTS operations (including court staff, fee remission staff, security, DACU (data access and compliance), procurement responsible for outsourcing, IT, RCJCRATU (recording and transcription)); as well as the trade unions with the wealth of experience and commitment these bring, valid profound objections to outsourcing compliance and collections, and representation from the criminal bar with facts and figures on commoditizing legal aid, effectively ending access to justice. The opposite is required, of expanding legal aid to crime victims, addressing the question of why the crown courts do not see much financial crime and have no sentencing guidelines. MoJ has published guidance for those in person without apparently realizing its content does not reflect day-to-day operations and subjects litigants to unforeseen personal danger.

1. *What evidence is there that the impact of:*

- *the Charter of Fundamental Rights of the European Union (“the Charter”);*
- *the EU’s broader framework of fundamental rights*

has been advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

1 **Advantageous and indispensable.**

1.1 The universal declaration of human rights sixty-five years ago has not been upheld in the UK, as though it had never come into existence. Therefore the Charter and European Convention as well as the UN Convention on Torture (including mental torture) are all that practically exist.

1.2 There are no provisions for protection which are effective (in particular *operationally* effective) including as between private entities and each other. These have operated opportunistically to infiltrate and control the organs of state from the inside. Examples include:

1.2.1 the Ministry of Justice (in particular the courts, where interception of communications and toxic contamination of files is rife, with no inspections or internal audit of data and records including on acceptance of fees without verifying the identity of the payer and those benefiting);

1.2.2 Department of Business Innovations & Skills, replacement to the Department of Trade & Industry, and its agencies (as the Insolvency Service), other bodies for which it has responsibility (Competition Commission, FRC) and its outsourcers, as the London Gazette;

1.2.3 local Authorities;

1.2.4 Official Solicitor;

1.2.5 Official Receiver;

1.2.6 Treasury Solicitor;

1.2.7 Serious Fraud Office;

1.2.8 Senior Court Costs Office;

1.2.9 Court of Protection;

1.2.10 Licensing bodies etc. such that:

(a) these organs of state are caused to operate perversely;

(b) the state effectively and efficiently attacks those it is required to protect;

(c) the perpetrators become the state in all but name.

- 1.3 “*Policy and strategy*” by anonymous persons remote from the realities of day to day existence proliferates, who assume blocking and filtering empowerment they do not naturally have. This has created widespread contraventions of RIPA (Regulation of Investigative Powers Act 2000) and contraventions of the Money Laundering Regs (POCA). Barristers chambers operate without POCA compliance on business acceptance, as do insolvency practitioners, expert witnesses, trainers of witnesses, private investigators, bailiffs and others.
- 1.4 The effect is a venue in the UK civil courts where fraud can flourish by use of anonymity and off balance sheet litigation funds backed by underwriters; trading in civil relief; causing the courts to operate perversely whilst perpetrators are not held to account as having no standing; and no appeal mechanism where no points of law or reasoning are in point.
- 1.5 Individuals predictably get mentally broken after years of continuous mental torture, alienation from family, dependants, access to business or private life, their own resources and torment of not knowing who the perpetrators are; the funding arrangements; and the skeletons that the perpetrators have manage to bury which inevitably become public unless the victims’ civil reliefs are heard (ie made public), an insurmountable barrier in circumstances in which there is no access.
- 2 Without the UN convention on torture, including in particular mental torture; the EU Convention; and the Charter, there would be an absolute vacuum.
- 3 In particular there are no provisions in the UK for protection from financial terrorism (excluded also in the anti Terrorism Act); there is no guaranteed access to justice; and without a human right to live in a corruption free environment, there is no chance of effective protection from offenders. This requires indictment and disgorgement of profit to deliver permanent curtailment and public protection. Loss of license and insurance follow automatically.

- 4 An effective victims charter would leave the witness/victim indifferent as to whether offenders are prosecuted or not; no burden beyond the need to file in the civil court and serve on time; and relief for loss of opportunity including fatalities, human and otherwise. A victims statement ought to be an automatic right and public. Potential suspects ought to be entitled to written confirmation that they are not considered for a draft indictment list and their identity never made public. Witness and victim protection ought properly to exist indictment or not (Victims Code). MoJ, the Prudential Authority, Trading Standards, OFT ought to be part of financial crime reporting.
- 5 Carbuncles on the landscape as “Action Fraud” ought to be eliminated, as they give a false sense of what they achieve; in essence a private call centre with anonymous call handlers which is not 24x7, that does not accept crime reports but gives out CAD numbers (computer aided dispatches) which police convert to a social services job, and whose contract and service level agreements are not prominent on its website together with its financial statements, revenues from the contact and penalties imposed. Action Fraud is predictably not respected by police for good reason, and will not be until inbound as well as outbound calls are recorded, agents give their shoulder or other number and the allocated CAD number is traceable with the associated crime report.
- 6 Unless Europe can audit the operational effectiveness of the UK’s criminal justice system in accordance with Convention and Charter there is no way that it can be said that (a) there is protection; (b) it is (operationally) effective; (c) it protects as between private citizens and each other. There is no trodden mechanism by which a judge in the civil courts referring fraud to the DPP or contempt to the Attorney General can ensure either that the matter returns (as opposed to disappearing down a black-hole) or that the net is cast sufficiently widely such that the outcome is more than the brutal public savaging of scapegoats, whether financially compensated for serving time or not.

2. What evidence is there on whether the Charter is being interpreted and applied in line with the general provisions set out in Title VII of the Charter?

- 7 Until recently it was believed that the Charter did not apply in the UK. This extent of ignorance is spectacular.

- 8 The Title VII provisions in the Charter are in essence; obligation to adopt and enforce (Art. 51); limitations are restricted (Art. 52); no scope for restriction on interpretation (Art. 53); abuses are prohibited (Art. 54). The question of interpretation and application does not arise in circumstances in which the Charter is treated as though it did not exist and devices are deployed to avoid difficult questions, for example dismissing an asylum appeal by discrediting a witness and thereby not hearing a default claim, for example breach of privacy, on the grounds that “nothing hangs on it”.
- 9 The position has been made more acute with the systemic corruption in the operations of the courts whose fitness for purpose has been the subject of public outcry, including by judges in the family courts and now the revelations exposed by the House of Lords Mental Capacity 2005 Committee (final report March 2014).
- 10 Such systemic corruption extends to the impact of lobbying in the development of new laws thereby relegating Parliament to a mere product manufacturer without prototyping or business case before new rules are public.
- 11 The 2013 Defamation Act is a case in point. It removes the right to a jury unless a judge orders a jury trial, does not provide for immediate removal of offending materials, and creates doubt where previously there was certainty through common law authorities. Consideration of expenses (“cost”) has come as a separate exercise to the act itself omitting to take into account that expenses in this area are frequently voluntary as, in essence, the court is being used for objectives beyond simple but serious defamation. The question of the nature of the expense and the justification for asking someone to meet another’s expenses which they did not control, is obscure. Seldom does “*loser pays all*” expenses reflect the proper outcome, although where insurers are paying there may be indifference all around, pushing up the costs of access unpredictably.
- 12 The Deferred Prosecution Agreements Act is a second example (called Crime and Courts Act 2013), with a Model Code yet to be published, or Sentencing Guidelines announced for the notional sentence that is being averted under the agreements. The Act has no effect without a model code. However there is no lawful mechanism that the Memorandum of a company can incorporate provisions to do what is unlawful and use shareholders funds to meet penalties and avert disgorgement and the fatal ending of licenses and insurance that goes with this.

13 The consequences are profound and disturbing. It can at once be seen that if fresh law comes off the production line which is defective, a problem is created for the courts.

3. What evidence is there that the impact of ECHR case law, as it is given effect through the EU's fundamental rights framework, has been advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

Please see example of OBG v UK 2011 ECHR 2087 cited below under question 9, by way of example of advantage to the UK with no discernible downside.

4. What evidence is there that the impact of the Fundamental Rights Agency has been advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

14 Unequivocal evidence that the FRA has been advantageous. The FRA gives hope where otherwise there would be none (in the UK). The FRA relies on real evidence and makes it accessible. There would be nothing to plug the gap were the FRA not there.

5. What evidence is there of whether the Fundamental Rights Agency demonstrates value for money?

15 The budget of Euro 20m for 2012 is a modest sum in absolute terms. The damages and loss of opportunity of ignoring human rights has not been quantified. The position in the UK is exacerbated by the fact that MoJ has no MIS (management information systems) and can therefore give no empirical data on volume and value of the throughput, nor the damages and consequential damages of wrongly decided matters or matters where those involved are destroyed before they come out the other end, if they are lucky enough to survive the experience.

16 A simple claim to recover personal data and records from family and business lawyers, so family and business accounts can be prepared, cannot currently be processed in the UK courts in less than eight years, with no prospect of getting either heard or reaching the end. This would not be such a prevalent problem in the UK were it not the case that trading in personal identity, fraudulent misrepresentation, trading in personal data is widespread and law enforcement goes according to who the suspect is and not what the offence is.

17 There are particular problems with the Information Commissioner in that s55 prosecutions under the DPA do not occur if there is the permission of the data controller. The IC makes an assessment at its sole discretion, and is prone, according to its own guidelines and staff, to treat lawyers as being the “*data controller*” and therefore able to assume the identity of their clients and act against them, using their own data and resources including without their knowledge or authority.

18 The IC has intercepted the publication of the identities of rogue private investigators and those hiring them to “*investigate*” a process that will take months, delayed initially in order not to taint “*blue chips*” with criminality. The risks to the public are plain.

6. *What evidence is there to demonstrate the advantages or disadvantages of the Fundamental Rights and Citizenship Programme for the UK, and individuals within the UK?*

19 The following applies:

The focus of the Fundamental Rights and Citizenship programme is:

the protection of the rights of the child;

combating racism, xenophobia and anti-Semitism;

the fight against homophobia;

active participation in the democratic life of the Union;

data protection and privacy rights;

training and networking between legal professions and legal practitioners.

The programme will pursue its objectives by means of transnational actions (Action grants), Operating grants and the Commission's own initiatives (Calls for tenders).

20 The list of focus appears random and not focused on the most troublesome areas of concern in particular with reference to economic prosperity and stability. The protection of the child is no more important than protection of the parent on whom the child depends; there is little point in being concerned over data protection and privacy, when trading in personal data and identity theft is rife, including by banks and lawyers of the victims, the IC converts offences into fines, depending on who the offender is, and the identity of abusers is buried as they are “*blue chips*” and their victims, presumably, are not.

21 The inclusion of training and networking in the legal industry is downright offensive when UK court officials have to make do with close to none, and “*portable jobs*” apply which mean you turn up to work and neither know where you will be or what you are required to do. Job cards are not part of standard operating procedures, the statement in HMCTS’s accounts that these are now widely used is misleading, and officials are banned on advising on practice forms as they are not “*legally trained*”.

7. What evidence is there that the Fundamental Rights and Citizenship programme provides value for money?

22 None. It is shameful that public resource should go to “*networking*” and not addressing real problems like integrating migrant workers efficiently and effectively.

8. Do the projects funded under the Fundamental Rights and Citizenship programme help the programme meet its stated objectives?

23 Based on what is published above, it is a distraction, with no glaring reasoning in its decision making processes. If it has some other value, it does not leap out.

9. What evidence is there that the impact of the EU’s accession to the ECHR will be advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

24 It is fundamental on all accounts. One example is cited by way of illustration. This is OBG & Ors v UK [2011] ECHR 2087 (29 November 2011). The application was dismissed on the grounds that there was no fatal defect in the UK legal framework/rules and the ECHR declined to “*double guess*” the domestic working of the UK courts.

25 The case involved the Royal Bank of Scotland transferring the benefit of a floating charge (no underlying debt) to a supplier of its client (a successful business), who appointed a receiver, pulled, took money and promptly went into liquidation. The receiver was not held to account with a cause of action in the default in his proper appointment. He ought to have been. By the time it reached the ECHR it was too late and could not be disinterred, in the way for example UK courts have done when there is a roller coaster to general civil restraint orders without either properly imposed extended civil restraint orders or evidence of default of these.

26 In other words, by hearing such cases, the ECHR highlights that it cannot interfere to “*repair*” what the UK courts get wrong, and the spotlight is on the UK to operate correctly and effectively. It was plain to all commentators that this case was a travesty, as proved by the subsequent developments as for example the random pulling down of businesses by manufacture of fake debt; fake administration (including pre packs); fake bankruptcies; as well as the exclusion of the victims by use of devices as the Mental Capacity Act 2005, and/or an improperly appointed “*trustee in bankruptcy*” to facilitate trade in civil reliefs, underwritten in the financial markets.

10. *What evidence is there that the impact of the Rights, Citizenship and Equality Programme will be advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?*

27 It will be as successful as the ability to predict the problems which bedevil the man in the street and to recognize the dependencies that exist and where previous advantages no longer apply.

28 Two examples are cited. The first is that judges more than ever rely on each others’ work to give guidance on what to do. In the crown courts in the UK they are at a disadvantage because the “*corruption and collusion*” identified by the Parliamentary Commission on Banking Standards has not come before them with a vengeance; there is limited experience in casting a wide net; and less in sentencing. It is virtually impossible to secure a reasoned handed down judgment in the civil courts, as those manipulating the system manufacture “*orders*” which replace these and are used in and out of the court as tokens to secure pecuniary advantage at the expense of the victim to which the perpetrators have no proper entitlement.

29 Judges have to deal with laws which contradict existing law; have no opportunity to send it back to Parliament as sub-standard; and end up “*inventing*” giving rise to corruption of the law itself. This must be openly addressed and resolved.

30 Second is the issue of the press, a cornerstone of a system of open justice, relied on and respected by judiciary to achieve transparency. Changes in the market have made it very difficult to secure employment and newspapers which are loss-making may not be able to survive although performing a crucial public role, as the Guardian has done in the case of Edward Snowden. There is virtual paranoia in publishing matters that might offend the rich and powerful, as the legal industry supporting the banks, and wrongdoing therefore goes unreported. This cannot be right and must also be addressed otherwise the conventional machine for freedom of expression and transparency in the judicial system will not operate as it properly should.

11. What other future challenges and opportunities in respect of EU fundamental rights are relevant to the UK?

31 Properly understanding what effective law means ie not merely the law on paper but also the operations of the system. Secondly the impact of outsourcing and savaging legal aid. Third, what opportunities, if any, can be created for UK cases being heard in European courts. Fourth publicity to the key issues affecting the operations of the legal justice system. Fifthly the ability to forecast the type of issues to be adjudicated, for which proper management information systems are needed. Sixthly ending diversionary pre occupation with the income of the legal industry in the civil courts, networking and other deflections.

12. How could action in respect of fundamental rights be taken differently – including nationally, regionally, or by other international organisations – and how would this affect the United Kingdom?

32 This could be undertaken by a witness and victim centric approach; cohesion between the civil and crown courts; blocking the courts from being arenas for “*outwalleting*”; use of “*litigation weapons*”; transactions of arbitrage; rigour in recruiting into the judiciary, in particular the need for candidates to pass exams in bills and VAT as well as money laundering checks before an application for a job is processed; halting and reversing shared back-office services which have turned intelligent experienced court officials into paper processors, where a brain and a heart are inconveniences to the job.

33 The UK will not pay attention unless obliged to; this will not happen unless the courts are subjected to inspection and audit. The ECHR has made it clear that if the framework for effective protection exists in the UK it will back off delving into whether it has been properly applied. This in turn means that victims of misapplied law in the UK are stuck because the misapplication is a problem of execution rather than the law does not exist.

34 The paranoia about UK autonomy is wholly misplaced. The ECHR does not “*interfere*” in domestic autonomy. However where UK vested interests lobby Europe and a result comes out which is not in the public interest, it is useless to blame Europe. A recent example is in the review of the independence of the auditors and rotation. For some inexplicable reason no-one has told either the Competition Commission, the FRC or Europe that professional rules require mandatory rotation each seven years and that there is no practical difference between changing teams internally or by change of firm.

13. Is there any evidence of fundamental rights being used indirectly to expand the competence of the EU? If so, is this advantageous or disadvantageous to individuals, business, the public sector or any other groups in the UK?

35 None in my experience. The courts and practitioners appear to bend over backwards to avoid this, resulting in loss of confidence, where a more robust approach could usefully be applied by the ECHR.

36 The UK is a small and largely irrelevant island with overseas interest attracted only from the ease with which the markets and tax system can be manipulated to the advantage of some at the expense of the voiceless. The likelihood of encroachment is slight, the likelihood of indifference is great.

14. Is there any other evidence in the field of EU fundamental rights which is relevant to this review?

- 37 Yes. There is a fundamental difference between textbook law and operational rules including developments in how the courts are being used and for what purpose. Without management information the MoJ cannot function. MoJ was embarrassed before the House of Lords Mental Capacity Act 2005 Committee to say that Ministers had only anecdotal evidence of fraud, and no real evidence. However nobody knows how much has been referred to DACU, to Security, to Peter Handcock, CEO, HMCTS, to the incumbent LCJ, to general.queries@justice.gsi.gov.uk (supposedly the postal email address of ministers), or by judges to police, DPP, Attorney General or even the office of judicial review, which brands wrongdoing as a “*judicial decision*” they can do nothing about. Information flows must be unblocked and known blockages as the “*Complaints Departments*” simply closed down and staff more gainfully employed.
- 38 Second court staff see no value add from those occupying the premises at Petty France. It is not visible. What those located there do, how they are organised, how they report, how they can be contacted, should be made public; security and front office should be taken back in house; and the slogans at the bottoms of emails should be removed until such time as they are earned, access to justice is proved, turnaround time is measured in less than decades and the accolade is given by satisfied “customers” not created by slogan manufacturers:

<p>Ministry of Justice Creating a safe, just and democratic society www.justice.gov.uk @MoJGovUK @MoJPress <i>Transforming Justice: creating a more effective, less costly and more responsive justice system</i></p>

- 39 With no meaningful access, the current UK justice system is merely a means of value changing hands, with a winner and a loser, and the MoJ willing to enter the arena with blackening brandings as “*civil restraint orders*” published on its website, which in fact do not exist; bankruptcy notices in the London Gazette, when there is no bankrupt; embargo’ed judgments up on BAILLII and those not delivered on the websites of barristers chambers, who ought to know better, as Maitland Chambers; decisions under the Mental Capacity Act 2005 on those against whom there is no claim, and no prejudice for which the court can grant relief.
- 40 The current judicial system in the UK has given new meaning to humiliating and degrading treatment and proves that, in the UK at least, there is no such thing as the sanctity of human life, and respect for the citizen including by the state. Only ECHR can come to the rescue of UK citizens.

Rosemary Cantwell

28 October 2013

Dear Mr Turner MP for the Isle of Wight and Ministry of Justice

Re Fundamental Rights - call for evidence and views – Rosemary Cantwell 's response

I am writing as a citizen of the United Kingdom and as a citizen of Europe. I value basic Human Rights and believe that there is a basic common code of principles underlying all cultures, all faiths, all religions and all belief-systems. As such I believe that such a code of conduct and rights comes with responsibilities.

I agree with Mrs Teresa May that there must be a code of ethics for the police, but also a code of ethics for everyone in our society that is communal and all-embracing.

The UN Convention on Human Rights would appear to be a very good starting point and this I commend to you as being adopted as the basis for our entire legal system. Our legal system is far too complicated and complex. We need to return to a simple and simplified code of conduct so that everyone can understand what is right and acceptable and what is unacceptable code of behaviour and conduct.

I am a Christian and the morality of this is "do as you would be done by" and "treat others as you would have them treat you" but I know that this is the basic tenet of all world religions.

It matters not what creed, colour, race or culture, but we must all recognise that we are brothers and sisters and need to help one another.

Thank you very much for your help.

Yours sincerely,

Rosemary Cantwell