

WHAT'S THE STORY?

It was 20 years ago that the European Court of Human Rights (EUHCR) became a full-time institution.

The Court was established in 1959 to ensure that Governments across Europe implemented the European Convention on Human Rights (ECHR).

At first the implementation of the ECHR was superintended by a Commission with the Court meeting from time to time to make judgements, but on November 1, 1998, the European Court of Human Rights became a full-time body.

WHY DO THE TORIES AND BREXITEERS HATE THE COURT AND ECHR SO MUCH?

AS one British court official famously said “we have ‘European’ and ‘human rights’ in our name so we are not ever going to be popular”. Certainly not with the Conservatives – remember that when she was Home Secretary, Prime Minister Theresa May promised to make it a manifesto pledge that she would scrap the Human Rights Act which brought the Convention into UK law and doing that would have pulled us out of the Court.

All of which is just bizarre and illogical because the state which pushed most for the Convention was – you’ve guessed it – the UK.

British lawyers drafted most of it at the behest of the Council of Europe, an institution dedicated to peace, democracy, the rule of law and human rights which was inspired by none other than the greatest Conservative Prime Minister of them all, Sir Winston Churchill – he was talking about it even during the Second World War as something worth fighting for.

One of the prime writers of the Convention was a brilliant Scots-born lawyer and MP, David Maxwell-Fyfe, later the Earl of Kilmuir, who would go on to become a Tory Lord Chancellor and who famously told then Foreign Secretary Anthony Eden that his lukewarm attitude to the Council of Europe and the ECHR had cost Britain the chance to be the leader of Europe.

NOT MUCH CHANGE THERE THEN – THE TORIES ARE STILL SPLIT ON EUROPE TODAY.

INDEED. Only this time the detestation of Europe by so many on the right really does threaten to pull the UK out of the Court.

There are none so ignorant as those who won’t try to understand, and that’s why the attitude of so many on the right towards the Convention and the Court is that it is all part of “Europe” and therefore must be opposed.

What utter balderdash. The Court is completely separate from the European Union and should never be confused – but usually is – with the European Court of Justice whose job is solely concerned with EU law.

Even the building in which it is housed in Strasbourg was designed by a British architect, Lord Richard Rogers. Oh, and none other than Her Majesty the Queen

gave the Court the royal seal of approval when she planted a tree on what was then its building site in 1992.

What really annoyed many Tories, not to mention UKIP and other right-wing groups, as well as so many Brexiteers, is that UK Governments of whatever make-up have lost cases in the Court, and we can't have all those foreign chaps telling us Brits what to do, eh?

WHY HAS THE UK LOST SO MANY CASES AT THE COURT?

FOR a start, it hasn't, and certainly even fewer after the UK Supreme Court came into being in 2009 with much of its case law drawn from Europe.

In 2017, for example, the UK Government lost just 0.4% of the 507 cases taken against it – precisely two – while the court actually ruled in favour of the UK in three cases. Some 99% of the cases were ruled inadmissible and overall the UK has had far more cases ruled inadmissible or been backed by the Court than were ever lost – compared to Russia and Turkey who account for a fifth of all lost cases, we're veritable saints.

This year there has been one stunning loss, however. The Court ruled that the so-called Snoopers' Charter that May wanted to impose back in 2013 is a breach of the ECHR. The Investigatory Powers Act thus joins the UK's list of shame. And quite rightly so, most people would say.

Past court judgements against the UK have included making the Government protect the anonymity of journalists' sources; allowing some prisoners to vote – David Cameron said the thought of that made him physically ill; bringing the age of consent for gay people into line for that of heterosexuals; obliging British prisons to take greater care of vulnerable prisoners; stopping businesses from the wholesale monitoring of employees' private communications; and ensuring that local councils must observe proper safeguards in evictions. And many more.

The judgement against the UK in the prisoner voting case is still unresolved more than a decade later.

THE FUTURE FOR US AND THE COURT?

HOPEFULLY Scotland will be independent soon and join the Council of Europe and sign up to the ECHR and its Court.

Post Brexit, the demands for withdrawal from the Court will only increase, though significantly May left out the pledge to withdraw from the Court from last year's Tory election manifesto.

The Court often takes years to hear cases and has a backlog of thousands from Russia alone, so expect to hear European rumblings about making the court efficient.

I think there is maybe a crumb of optimism in the article in saying that the Brexiteers are against the ECHR just because it is European. The underlying reason behind them wanting it abolished is more a matter of wanting to control the population as

Theresa May has blatantly shown when she was Home Secretary. We need to retain an objective institution to guard against, unfortunately, the UK Government. Who would have thought it 50 years ago when we were a recognised seat of democracy. It is extremely worrying and even frightening to contemplate what might and probably would happen if a "rogue" government had carte blanche to do whatever they wished with people who did not happen to agree with their politics.

The last sentence describes present-day Spain in a nutshell with very particular regard to the arbitrary jailing without trial of Catalanian politicians and current hysterical Spanish cries for what are effectively life sentences for peaceful protesters.

Nothing good is in the air at Westminster as it salivates over their unilateral Brexit shambles. (Whither Scotland in all this?) England's Tory politicians and their pet poodles in Holyrood must be smacking their lips at the prospects. Never was there a more critical juncture for Scotland to dissolve an ever more England-led fascist-oriented Tory UK. Come on SNP and Yes movements - Scotland expects ...