LCHR
Labour Campaign for Human Rights

HUMAN RIGHTS IN THE HUNG PARLIAMENT – DANGERS AND OPPORTUNITIES

June 2017

Executive summary

Theresa May promised this general election would produce an unassailable Conservative majority to deliver a manifesto brimming with policies that would undermine human rights in the UK. Instead, the Tories are defeated and now clinging onto power by a whisker. Labour's enhanced strength in the House of Commons puts us in a good position to prevent the worst excesses of Tory government, and it also opens up opportunities to influence legislation in a way that may not have been previously possible.

With this in mind, LCHR has put together this briefing to highlight three major human rights dangers and opportunities in the new hung Parliament, and make recommendations for how Labour should approach them. They include Brexit and our future immigration system, our current immigration system, and counter-terrorism measures & Prevent. This is not an exhaustive list, but we feel it reflects the issues that are likely to be highest on the parliamentary agenda.

Brexit and our future immigration system

LCHR recommends Labour should:

- Argue for a post-Brexit EU immigration deal which resembles free movement as closely as possible, while considering variations and alternatives that put fairness and human rights at their heart.

Labour should argue:

- The net migration target devalues people and the contributions they make to our economy and society. It encourages policies that lead to the separation of families, limit economic and human potential, and close us off from the rest of the world.
- 'Barista visas' and other proposals that reduce people to temporary economic pawns will actually prevent immigrants from settling and properly integrating because they are time-limited, and they are unfair because they do not offer sufficient opportunities for immigrants who make a genuine contribution.
- If EU migrants must be brought, in any way, into the UK's non-EEA visa regime, that broken system must be fixed. The numerous obstacles deliberately placed in the way of migrants who want to help Britain succeed must be lifted.

Our current immigration system

LCHR recommends Labour should:

- Resist any further efforts to restrict our immigration system.
- Call for the net migration target to be abolished.
- Erode some of the negative policies caused by the net migration target, particularly with respect to restrictions on family migration, students, and the high income thresholds associated with working visas.

Labour should argue:

- Immigration is increasingly becoming the preserve of the rich, including immigration for family purposes. This prevents everyone benefitting from globalisation equally, fuelling anger and alienation.
- The immigration system has to be based on some give and some take. The current system fails to properly reward immigrants who make a positive contribution to our society.
- Everyone has the right to be with their family. No government should interfere with this unless in exceptional circumstances. The emergence of 'skype families' is unacceptable in a decent society.
- Students make an enormous economic, intellectual, and cultural contribution to our society, and they should be exempted from the net migration target.

<u>Counter-terrorism measures and Prevent</u>

LCHR recommends Labour should:

- Interrogate the assumptions behind the government's counter-terrorism measures and ensure policies are evidence-based.
- Push for greater consideration to be given to privacy and freedom of speech concerns to ensure we do not destroy the very rights and freedoms the terrorists are trying to undermine.

Labour should argue:

- Counter-terrorism policy must be evidence-based if it's going to be effective. The current approach does not seem to have sufficient evidence to support its effectiveness.
- Undermining encryption would expose systems and sensitive communications to criminal hackers and foreign governments, undermining security on an individual and national level.

Introduction

Theresa May promised this general election would produce an unassailable Conservative majority to deliver a manifesto brimming with policies that would undermine human rights in the UK. Instead, the Tories are defeated and now clinging onto power by a whisker. Labour's enhanced strength in the House of Commons puts us in a good position to prevent the worst excesses of Tory government, and it also opens up opportunities to influence legislation in a way that may not have been previously possible.

With this in mind, LCHR has put together this briefing to highlight three human rights dangers and opportunities in the new hung Parliament, and make recommendations for how Labour should approach them. They include Brexit and our future immigration system, our current immigration system, and counter-terrorism measures & Prevent. This is not an exhaustive list, but we feel it reflects the issues that are likely to be highest on the parliamentary agenda.

First danger/opportunity: Brexit and our future immigration system

Before the election, the Conservatives seemed set on pursuing a 'hard Brexit', where strict immigration controls would be introduced on EU nationals and Britain would find itself locked out of the EU's economy in return.

This is still a danger, but now Labour has the chance to heavily influence the kind of Brexit we end up with. Labour Shadow Brexit Secretary, Keir Starmer, has rightly said that freedom of movement will end with Brexit. The question is what will replace it. This does not exclude the possibility of a new system that closely resembles freedom of movement.

LCHR believes our post-Brexit EU immigration system should be fair, humane, and grounded in human rights. Freedom of movement has many advantages from this perspective, as it does not prevent families from living together, and it leaves little room for discriminatory immigration rules. However, it is important to note that free movement between the UK and the EU would obviously not include non-EU migrants, and so it would be discriminatory in at least that sense.

LCHR believes that Labour should argue for an immigration deal with the EU that resembles free movement as closely as possible. However, variations on free movement, or alternative systems that have fairness and human rights at their heart, could also be considered. For example, one alternative might be to allow free movement for economic migrants from the EU who can prove they have a job offer, or to give skilled/high demand EU nationals preferential immigration access. Another option might be to give the UK a temporary 'brake' on EU immigration if it there is a consensus that it is harming the economy. These options may or may not be compliant with human rights, and LCHR will be undertaking a project over the

next few months to examine whether or not these and other proposals are indeed fair and humane, but they do deserve our critical consideration.

It will be vital, however, that if EU migrants are, in any form, brought into our current non-EEA immigration system, that the system as a whole should be reformed and made fair and fit for purpose. Currently, the UK's immigration system is designed to restrict flows of migrants to within an arbitrary 'net migration target', and everything within it is designed to accomplish this. This approach must be scrapped, and the unfair policies and practices that flow down from it must be replaced with a genuinely fair and humane system.

The Tories are likely to argue for bringing EU nationals into the current system in some form, and they may also float proposals such as the 'barista visa', which are designed to bring in unskilled migrants without giving them a route to stay beyond a set number of years.[1] This is not respectful of the rights and aspirations of immigrants.

LCHR recommends Labour should:

- Argue for a post-Brexit EU immigration deal which resembles free movement as closely as possible, while considering variations and alternatives that put fairness and human rights at their heart.

Labour should argue:

- The net migration target devalues people and the contributions they make to our economy and society. It encourages policies that lead to the separation of families, limit economic and human potential, and close us off from the rest of the world.
- 'Barista visas' and other proposals that reduce people to temporary economic pawns will actually prevent immigrants from settling and properly integrating because they are time-limited, and they are unfair because they do not offer sufficient opportunities for immigrants who make a genuine contribution.
- If EU migrants must be brought, in any way, into the UK's non-EU visa regime, that broken system must be fixed. The numerous obstacles deliberately placed in the way of migrants who want to help Britain succeed must be lifted.

Second danger/opportunity: Our current immigration system

As the government pursues Brexit negotiations, it still presides over a deeply unfair immigration system. As aforementioned, the UK's immigration system is designed to restrict flows of migrants to within an arbitrary 'net migration target', and everything within it is designed to accomplish this. In particular, many migrants now face income thresholds that make successful migration the preserve of the rich. Even if Labour is unable to force the government to abandon the net migration target policy, there are particular areas where we may be able to erode some of the excessive consequences of it. These include:

The family migration rules

There is currently a requirement that people should earn over £18,600 in order to sponsor their spouse or partner to move to the UK. This figure is beyond the reach of close to 40 per cent of the *working* population.[2] The earning potential of the spouse who is overseas is not taken into account, even if they currently have a job and earn above the threshold.

Moreover, spousal visa fees have become excessive, particularly following the addition of the immigration health surcharge. It now costs £1,464 to apply for a spousal visa, plus £600 for the health surcharge.[3] Moreover, as of June 2017, people are now charged £5.48 just to

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[1] http://www.telegraph.co.uk/news/2017/04/17/amber-rudd-considering-barista-visa-allow-eu-migrants-come-work/
[2] http://www.migrationobservatory.ox.ac.uk/resources/reports/the-minimum-income-requirement-for-non-eea-family-members-in-the-uk-2/
[3] https://www.gov.uk/join-family-in-uk/overview

email UK Visas and Immigration for basic information in relation to their applications.[4] These fees are exorbitant and seem designed to deter applications.

Restrictions on working visas

From 2016, all skilled non-EEA immigrants (apart from those in exempt professions) have to earn over £35,000 in order to apply for indefinite leave to remain in the UK. This policy is deeply unfair, and yet again seems to be aimed at deterring immigration rather than trying to follow a fair and humane approach. Many people, for example those working in the charity sector, will not meet this threshold, despite having made substantial contributions to the UK.

Moreover, the minimum salary requirement for the tier 2 skilled worker visa has increased since 2016 from £20,800 to £30,000, a staggering increase that will likely leave many skilled professionals unable to obtain a visa. Salary alone does not determine the value of a migrant's skills.

Taking students out of the net migration target

International students are of enormous benefit to the financial, intellectual, and cultural life of this country. Many will go back to their home countries after their studies, but some may search for work here. If they are able to, they should be allowed to use their skills and qualifications to work here.

However, the government continues to insist on keeping students in the net migration target, thus building incentives for policies that prevent them from staying or even coming in the first place. This includes the abolition of post-study work visas in 2012.

LCHR recommends Labour should:

- Resist any further efforts to restrict our immigration system.
- Call for the net migration target to be abolished.
- Erode some of the negative policies caused by the net migration target, particularly with respect to restrictions on family migration, students, and the high income thresholds associated with working visas.

Labour should argue:

- Immigration is increasingly becoming the preserve of the rich, including immigration for family purposes. This prevents everyone benefitting from globalisation equally, fuelling anger and alienation.
- The immigration system has to be based on some give and some take. The current system fails to properly reward immigrants who make a positive contribution to our society.
- Everyone has the right to be with their family. No government should interfere with this unless in exceptional circumstances. The rise of 'skype families' in unacceptable in a decent society.
- Students make an enormous economic, intellectual, and cultural contribution to our society, and they should be exempted from the net migration target.

Third danger/opportunity: Counter-terrorism measures and Prevent

Following the devastating terrorist attack on Manchester in May, Jeremy Corbyn bravely argued that the UK's current approach to tackling terrorism is not working. However, by contrast, following the London Bridge attack Theresa May announced plans to extend the UK's current counter-extremism programme. There has also been speculation that the Tories might attempt to interfere with encrypted messaging services.

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[4] http://uk.businessinsider.com/uk-begins-charging-foreigners-548-to-send-single-visa-enquiry-email-2017-5

There is thus both a danger and an opportunity in this Parliament – a danger that the government may double down on already contentious counter-terrorism approaches, and an opportunity for Labour to push for new thinking on tackling the root causes of terrorism.

As well as the obvious privacy concerns, experts have dismissed the Tories' proposals to create back-doors into encrypted messaging services, arguing it would undermine UK security as a whole by allowing criminals and foreign governments to exploit the same holes, and because terrorists could use alternative means of communication, including their own encrypted services.[5]

The government's current Prevent programme aims to identify and tackle extremism, which is seen as a driver of terrorism. However, there is actually no proven link between the two. Some academics would argue that more conservative figures in the Muslim community, for example, who might be branded extremists, could actually be utilised in the fight against terrorism because they oppose violence.[6] This argument is no doubt politically contentious and also challenging from a human rights perspective, but it does show that the assumptions underlying Prevent may not be evidence-based. Irrespective of this, though, Prevent's implementation has not only resulted in the invasion of privacy and the stifling of free speech, it has backfired within the Muslim community, caused widespread distrust of the programme and non-cooperation.[7]

LCHR intends to undertake its own review of the Prevent programme over the next few months and produce recommendations for Labour that include possible alternatives. *In the mean time, we recommend that Labour should:*

- Interrogate the assumptions behind the government's counter-terrorism measures and ensure policies are evidence-based.
- Push for greater consideration to be given to privacy and freedom of speech concerns, to ensure we do not destroy the very rights and freedoms the terrorists are trying to undermine.

Labour should argue:

- Counter-terrorism policy must be evidence-based if it's going to be effective. The current approach does not seem to have sufficient evidence to support its effectiveness.
- Undermining encryption would expose systems and sensitive communications to criminal hackers and foreign governments, undermining security on an individual and national level.

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[5] http://www.cityam.com/261750/amber-amber-rudds-whatsapp-encryption-remarks-heres-experts; https://www.ctc.usma.edu/posts/how-terrorists-use-encryption
[6] http://blogs.lse.ac.uk/religionpublicsphere/2016/10/prevent-the-shifting-parameters-of-uk-counter-terrorism/
[7] http://www.middleeasteye.net/news/uks-prevent-strategy-alienating-muslim-communities-new-report-warns-1969000720; http://www.bbc.co.uk/news/uk-28934992