

LIBERTY

Rt Hon Jeremy Corbyn MP
House of Commons
London
SW1A 0AA

3 April 2019

Dear Mr Corbyn,

Human rights after Brexit

We are writing to you following the Prime Minister's statement yesterday in which she offered to enter into negotiations with you in pursuit of a "joint plan" on Brexit. We are writing to ask that during these talks you raise the issue of fundamental rights protections post-Brexit and push for a change in the language to the Political Declaration, shoring up the UK's commitment to the Council of Europe (CoE) and the European Convention on Human Rights (ECHR) after we leave the European Union (EU).

Throughout the Brexit process to date, fundamental rights protections have been side-lined from the main debate. Liberty has been increasingly perturbed by the Government's startling equivocation with respect to the UK's human rights framework after Brexit. Despite promises that Brexit would not result in a reduction in rights, we have already seen tangible losses to fundamental rights protections in the UK, most notably the express failure to incorporate the EU Charter of Fundamental Rights in the corpus of 'retained EU law' under the EU (Withdrawal) Act 2018.

Whether you voted to leave or remain, no one voted for fewer rights after Brexit. Looking forward to the future relationship between the United Kingdom and the European Union, it is vital that both sides commit to protecting our hard-won fundamental rights and freedoms – rights that protect each and every one of us.

To ensure that this is the case, the UK must remain a fully committed member of both the CoE and the ECHR. This is in Liberty's view the absolute baseline requirement for a rights-respecting UK after Brexit. We were therefore initially encouraged when the summary draft of the Political Declaration was published on 14 November 2018, in which it indicated that the future relationship would be underpinned by a "reaffirmation of the United Kingdom's commitment to the European Convention on Human Rights (ECHR)". With respect to law enforcement and judicial cooperation in criminal matters, the

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summary draft went on to clearly state that there would be “continued adherence to the ECHR and its system of enforcement”.

This robust commitment offered a good measure of reassurance to those concerned about human rights in the UK after Brexit. It was therefore a source of great disappointment when the final version, published on 22 November 2018, diluted these formulations. In particular, it stated that the UK would merely commit to “respect the framework of the European Convention on Human Rights”. Regarding future law enforcement and judicial cooperation, the UK would now only commit to “continued adherence and giving effect to the ECHR”.

In response to a letter seeking clarity on this issue from Lord Boswell, Chairman of the EU Committee, Edward Argar MP, Parliamentary Under-Secretary of State for Justice, stated that “this difference in wording does not represent a change in the UK’s position on the ECHR” and that the “UK has no plans to withdraw”. However, it is Liberty’s view that any change to drafting, particularly where it is dilutive, is significant. Rights are only meaningful if they are effective and therefore our commitment must extend to its full system of enforcement. There can be no question of a break in the formal link between the UK courts and the European Court of Human Rights after Brexit. The UK’s history of political attacks on the Human Rights Act and the ECHR makes enshrining formal legal commitments to the ECHR into the Brexit process all the more essential.

As Mr Starmer clearly stated during the passage of the EU (Withdrawal) Bill, “Brexit should not be used ... to reduce our human rights protections in the UK”. Liberty wholeheartedly agrees. Talks between yourself and the Prime Minister in the coming days offer a real opportunity for Labour to reverse the trend of sidelining people’s rights in the Brexit process. A change of language in the Political Declaration, shoring up the UK’s commitment to the CoE and the ECHR along the lines of the summary draft would be an important start.

Yours sincerely,



Corey Stoughton

Acting Director

Copy to: Rt Hon Keir Starmer MP, Shadow Secretary of State for Exiting the European Union