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Abstract: *This article provides comparative analysis of legal frameworks in terms of civil liberties and human rights in two different countries. Since there have been emerging controversies regarding two different legal system. It is true that in the UK over the past 20 years, there have been significant developments which have undermined public confidence in the human rights framework in the UK, and which make change necessary today. The enforcement of different statutes and precedents lead to many changes in the UK. Meanwhile, Uzbekistan prima facie mentions the formal list of human rights and civil liberties through its Constitution and empathizes their implementation within the standing normative-legal acts.*

Keywords: *Civil liberty, human rights, legal framework, legal system, jurisdiction, Human Rights Act 1998, European Convention on Human Rights (ECHR) 1950, Constitution, legal precedents.*

1. INTRODUCTION

The World Report 2014 prepared by the Human Rights Watch expresses that the protection of human rights in Uzbekistan is ‘abysmal’, whilst the United Kingdom has been popular with its sufficient contribution to the protection of human rights at both local and international levels.¹ For instance, where same-sex marriage in Uzbekistan is prohibited, the UK allows not only such a marriage but also the freedom in the choice of sexual orientation. Although the Constitution of Uzbekistan provides the freedom of expression, it is limited in scope as the legislation provides too much vague interpretation of the prohibited activity through media.² A similar approach is followed in providing a right to organize or be a part of a religious confession, where the law³ does not define on what kind of basis and which religious associations are prohibited; whilst the UK does not put sufficient limitation in this regard. Interestingly, neither state in the world has performed as a perfect actor for the empowerment of human rights.⁴ Similarly, neither scholar has mentioned the perfect model of civil liberties within any state’s legislation. There is a sufficient difference in the protection of human and civil rights among Uzbek and English jurisdictions. In this regard, the protection of

¹ Human Rights Watch, *World Report 2014* (Seven Stories Press 2014)
<https://www.hrw.org/sites/default/files/wr2014_web_0.pdf> accessed 18 January 2021.

² The Constitution of the Republic of Uzbekistan, art 29; The Law of The Republic of Uzbekistan No. 541-I “On Mass Media” dated December 26, 1997, art 6.

³ The Law of The Republic of Uzbekistan No. 289-XII “On Freedom of Conscience and Religious Organizations” dated June 14, 1991.

⁴ Inter-Parliamentary Union and The United Nations Office of the High Commissioner for Human Rights, *Human Rights: Handbook for Parliamentarians N° 26* (Courand et Associés 2016), p 116
<<https://www.ohchr.org/documents/publications/handbookparliamentarians.pdf>> accessed 18 January 2021.

human rights and civil liberties in States⁵ are critically compared *inter se* at least from the legal perspectives.

2. INTERNATIONAL COMMITMENT TO THE PROTECTION OF THE RIGHTS

Generally, both States hold international obligations in the protection of human and civil rights. The States have become members of a number of international treaties and programs on the protection of human rights and civil liberties.⁶ Notably, in comparison with Uzbekistan, the UK does not only become a part of the protectionist movement but also calls the developing countries to follow its way.⁷

3. OCCURRENCE OF THE RIGHTS IN LEGAL SYSTEMS

As for the nature of the legal systems of States, there is a substantial difference in the presentation of human rights and civil liberties within the legal framework at a national level. The UK presents compliance with the above general principles through its statutes⁸, legal precedents⁹ and customary law. Such kind of structure of the legal system in the UK shall be considered to be vague enough to identify whether particular human rights and civil liberties are *de facto* protected¹⁰ within the jurisdiction or not, and even there is obvious protection of rights by the government it can be interrupted and understood in a different way. Meanwhile, Uzbekistan *prima facie* mentions the formal list of human rights and civil liberties through its Constitution and empathizes their implementation within the standing normative-legal acts such as Codes, Laws, Resolutions, Degrees and Decisions.¹¹ Uzbekistan's such a systematic approach provides easy navigation on the identification of the existence of the pertinent protection of human rights and civil liberties thereto.

⁵ For the purposes of this essay, the [capitalized] word 'States' shall mean both the United Kingdom and the Republic of Uzbekistan.

⁶ Uzbekistan and the UK ratified a number of treaties, including, without limitation, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, International Convention on the Elimination of All Forms of Discrimination, Convention on the Elimination of all Forms of Discrimination against Women, Convention on the Rights of the Child, Convention concerning Equal Remuneration for Men and Women Workers for Work for Equal Value, Convention concerning Discrimination in Respect of Employment and Occupation.

⁷ See e.g. Foreign and Commonwealth Affairs, *Human Rights and Democracy: The 2014 Foreign & Commonwealth Office Report* (Williams Lea Group 2015)

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/415910/AHRR_2014_Final_to_TSO.pdf> accessed 21 January 2021.

⁸ See e.g. Human Rights Act 1998; Freedom of Information Act 2000; Equality Act 2010; The Gender Recognition Act 2004.

⁹ See e.g. *T v Secretary of State for the Home Department* [1996] 2 All ER 865; *Burnip v Birmingham City Council and Secretary of State for Work and Pensions* [2012] EWCA Civ 629.

¹⁰ Colm O'Conneide, *Human Rights and the UK Constitution* (Smith & Watts 2012) <<https://www.thebritishacademy.ac.uk/documents/262/Human-rights-and-the-UK-constitution.pdf>> accessed 20 January 2021.

¹¹ See e.g. The Law of The Republic of Uzbekistan No. 541-I "On Mass Media" dated December 26, 1997, which empathizes the 'freedom of expression' provided under Article 29 of the Constitution of the Republic of Uzbekistan; The Law of The Republic of Uzbekistan No. 289-XII "On Freedom of Conscience and Religious Organizations" dated June 14, 1991, which empathizes the 'freedom of conscience' provided under Article 31 of the Constitution of the Republic of Uzbekistan.

Therefore, Uzbekistan is in a better position in determining the list of protected human rights and civil liberties than the UK.

4. JUDICIAL LAYERS OF PROTECTION

4.1. The United Kingdom

The UK evolves three-tier layer protection¹² *vis-à-vis* both human rights and civil liberties provided by the followings:

(1) *the common law*

The High Court has the obligation to exercise the judicial review over ‘inferior courts and tribunals’, not limited to the administrative decision-makers whose activities have an impact on the society’s interests. However, some ambiguity exists hereof. Although the High Court, *per se*, has the foregoing power, it cannot review the Parliament’s decisions.¹³

(2) *European Convention on Human Rights (ECHR) 1950*¹⁴

People can submit a claim on the above principles’ infringement to the European Court of Human Rights (ECtHR) if all remedies at a UK domestic court are received. Interestingly, the UK legislation does not speak about the compliance with the ECtHR’s decision. Nevertheless, the UK shall be binding upon the ECtHR’s decision due to Article 46 of the ECHR provided that the non-compliance with such a decision would be considered as a violation of the UK’s international obligation.

(3) *Human Rights Act (HRA) 1998*

HRA imposes the majority of human and civil rights by referring to the ECHR, thereof referred to as the ‘Convention rights’.¹⁵ This allows people to seek a remedy against the infringement of the rights by the public authorities. However, the contents of the HRA does not emphasize all human and civil rights; and, in addition, since the Act imposes the flexibility of interpretation of the Convention rights, it triggers the Parliament to expose the final say and feel the political participation in the area.¹⁶

4.2. Uzbekistan

Contrary, Uzbekistan’s legislation provides only one layer of the protection of human rights and civil liberties – that is, Constitutional protection. As stated above, human rights and civil liberties are mostly included in the Constitution. Likewise, the judicial review of the public officials and organizations conduct through the hierarchical *juris system* as stipulated thereof. Even though the

¹² *ibid* (n10).

¹³ Bill of Rights 1689, art IX.

¹⁴ The UK ratified the ECHR in 1951.

¹⁵ The ECtHR has performed a sufficient role, mainly, in the protection of the freedom of expression (see e.g. *Tolstoy v UK* [1995] 20 EHRR 442), privacy (see e.g. *Malone v United Kingdom* [1984] 4 EHRR 330), freedom from discrimination (see e.g. *Dudgeon v UK* [1981] 4 EHRR 149), freedom from inhuman and degrading treatment (see e.g. *Price v UK* [2002] 34 EHRR 1285), and children’s rights (see e.g. *Z v UK* [2001] 2 FCR 246).

¹⁶ Conor Gearty, ‘Reconciling Parliamentary Democracy and Human Rights’ (2002) 118 *Law Quarterly Review* 248; by the same author, *The Principles of Human Rights Adjudication* (Oxford: OUP, 2003).

judicial body in Uzbekistan is an independent branch,¹⁷ this may not fully ensure the fair judgment over a particular case as a third parties overview and adjudication (like the ECtHR for the UK) over such a case is absent within such a civil legal system.

5. ROLE OF NON-JUDICIAL BODIES AUTHORIZED TO PROTECT THE RIGHTS

Except for the judicial protection of human and civil rights expressed above, States have their own:

- (i) *human rights commissions*¹⁸ (for Uzbekistan - National Human Rights Centre, for the UK – Equality and Human Rights Commission)

There is no sufficient difference between such commissions in both of the jurisdictions in the scope of their effect on the protection of rights.

- (ii) *ombudsman*¹⁹

There is only one sufficient difference between the ombudsmen of States making the Ombudsman on Human Rights in Uzbekistan have a right to investigate the public bodies as a matter of human rights infringement upon its sole initiative, whilst the UK Parliament requires the reasonable request from a complainant to start an investigation. Surely, the UK's such approach precludes unreasonable interference of the ombudsman to the internal affairs of the public authorities. However, Uzbekistan's approach empowers the ombudsman with the authority to better promote and protect the rights of civilians.

6. CONCLUSION

In terms of promotion and protection of human rights and civil liberties, the United Kingdom takes a prevailing position than Uzbekistan. From the legal overview, Uzbekistan has a structured determination of human and civil rights within its legal system, and its ombudsman on human rights has more authority than that in the UK. However, due to the multi-layered protection of the above notions and wide-ranged spectrum of provided so-called *freedom* rights, the United Kingdom affords higher protection of human rights and civil liberties.

¹⁷ The Constitution of the Republic of Uzbekistan, art 106.

¹⁸ National Human Rights Centre and Equality and Human Rights Commission are responsible for investigating and inquiring the public bodies to comply with the rights of people.

¹⁹ The ombudsmen are responsible for investigating and making the recommendations to the infringing and infringed parties in case a pertinent reasonable claim is no under the jurisdiction of a domestic court.

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