

## **The UK – A case of democratic backsliding?**

**Online workshop: 27<sup>th</sup>-28<sup>th</sup> April 2022**

### **Outline and Programme**

This workshop will discuss recent constitutional and political developments in the UK as a possible case of democratic backsliding. Democratic backsliding involves a retreat from values such as the rule of law and human rights in order to diminish pluralism and constrain criticism and opposition, thereby moving from democratic to autocratic rule. Governments engaged in democratic backsliding progressively undermine five components of democracy. First, these governments diminish the fairness of elections and amend the constitution to entrench their own ideological preferences and minimise political competition. Second, they attempt to subvert the independence of the judiciary by appointing only loyal supporters and re-organising the judicial system to favour the incumbent government. Third, they undermine universal human rights protection and respect for legality. Fourth, they corrode standards of conduct and accountability in public life. Fifth, they diminish freedom of speech through control over media outlets, using legal measures to attack criticism of the government, and stifle political debate. Until recently limited to post-communist states, these developments can now arguably be observed in the UK, raising concerns about the overall quality of democracy.

(i) As regards the electoral system, the government has adopted an elections bill increasing its control over the Electoral Commission, the independent body designed to police political parties and protect electoral integrity. The elections bill strips the Commission of its powers to bring prosecutions in England, Wales and Northern Ireland. It will give the government power to set a “strategy and policy statement” for the Commission to steer its priorities. In addition, Parliament itself has also suffered, not least when it was prorogued in an unprecedented manner after summer recess in 2019 at a crucial point in the negotiation of the Brexit deal to deprive MPs of time to debate the most important decision of contemporary British politics. Held to be unlawful by the Supreme Court, this prorogation of Parliament has undermined constitutional principles of parliamentary sovereignty and government accountability essential for a healthy democracy.

(ii) As for the judicial system, the Prime Minister has taken repeated steps to weaken its ability to review the actions of the executive. In particular, in 2020, he announced the establishment of a commission tasked with redefining the Supreme Court’s remit and the limits of judicial review of the executive’s actions in general. The commission concluded that the courts had by no means exceeded their powers and had not intervened more frequently in political issues than in the past and thus proposed only minimal changes. In response, the Ministry of Justice is preparing another way for the legislature to evade interference. This involves “ouster clauses” to be included in statutes placing them outside courts’ control. Reacting to these developments, over 800 leading lawyers and judges, including three former Supreme Court judges, called upon the government to cease their attacks on the justice system and the rule of law in October 2020.

(iii) Human rights, guaranteed to all under the Human Rights Act 1998 (HRA), have been under sustained criticism from the government, which plans to “overhaul” the HRA and disconnect the protection afforded in the UK from the European Court of Human Rights. Regularly stigmatising certain groups of people, such as migrants and poor people, the government is undermining the principle of equality before the law, a key element of the rule of law. This forms part of the government’s broader erosion of the rule of law, including its flexible approach to commitments under international law in the context of the Northern Ireland Protocol under the EU withdrawal agreement finalised at the end of 2019. The government stated less than a year later that it planned to break international law by unilaterally amending post-Brexit provisions for Northern Ireland, and the Prime Minister reportedly told French president Emmanuel Macron at the G7 summit in June 2021 that he had only “sort of” signed it.

(iv) Core values of liberal democracy involving accountability, and standards of conduct in public life have also been increasingly corroded. This includes the government’s recent attempt to change the parliamentary standards process to avoid the accountability of one of its MPs (Owen Paterson) and wider controversies about government contracts (such as the Covid test and trace system and provision of protective equipment) during the Covid pandemic, as well as repeated breaches of the Ministerial code (such as the refusal to sack Priti Patel over bullying allegations and other ongoing debates about MPs’ expenses and second jobs), including by the Prime Minister. He notoriously entertains a fractured relationship with the truth. The reason for his war on the truth is that truth and liberal democracy are intertwined. Indeed, if citizens wish to call their government to account, they need access to verifiable facts. When that access is denied by the executive, there is the danger of an authoritarian government in the guise of democracy. Standards of ethical conduct have also been questioned on other occasions (two sponsored luxury holidays abroad and the renovation of the flat in Downing Street).

(v) As regards the media, immediately after the December 2019 election the government started a campaign against the BBC and appointed a key supporter, Richard Sharp, as the corporation’s chairman. As a result of these and other actions, the BBC has grown noticeably more cautious when reporting on the Johnson administration. The government’s Culture Secretary has recently threatened the BBC, announcing that questioning of the Prime Minister by one of its interviewers has cost the organisation “a lot of money”.

Against this background, the workshop will provide an opportunity to assess each of the above five features of democratic backsliding by combining scholarly analysis from Politics and Law and drawing on the expertise of prominent legal and political guest speakers.

Discussions will be guided by three cross-cutting questions:

1. What are the essential components of any democracy?
2. Where does democratic practice end and democratic backsliding begin, and how acceptable are grey areas?
3. What are the ethical standards for policymakers that citizens demand?

\*\*\*\*\*

# Workshop Programme

All times are UK/London GMT

## Wednesday 27<sup>th</sup> April

14.00	<b>Start</b>
	Welcome to the workshop: Professor Sandra Kröger and Professor Catherine Dupré
14.15-15.45	<b>Session 1 — The Electoral System and Reform</b>
	Chair: Dr Lise Herman <a href="#">Darren Hughes</a> , Chief Executive, Electoral Reform Society
15.45-16.00	Break
16.00-17.30	<b>Session 2 — The Media</b>
	Chair: Professor Stephen Skinner <a href="#">Paul Wragg</a> , Professor of Media Law, School of Law, University of Leeds

## Thursday 28<sup>th</sup> April

11.30	<b>Start</b>
11.30-13.00	<b>Session 3 — Standards in Public Life</b>
	Chair: Professor Sandra Kröger <a href="#">Nick Allen</a> , Professor of Politics, Royal Holloway, University of London
13.00-14.00	Lunch break
14.00-15.30	<b>Session 4 — Human Rights Reforms</b>
	Chair: Professor Catherine Dupré <a href="#">Fiona Rutherford</a> , Chief Executive, Justice
15.30-16.00	Break
16.00-17.30	<b>Session 5 — The Judiciary</b>
	Chair: Dr David Barrett <a href="#">Lord David Neuberger of Abbotsbury</a> , former President of the Supreme Court
17.30-17.45	Concluding remarks: Professor Sandra Kröger and Professor Catherine Dupré

\*\*\*\*\*

## Registration

To register for the online workshop please use this link:

[https://universityofexeter.zoom.us/meeting/register/tJUpcOqorz0qGNN\\_WIJ3\\_NoYp3kXP\\_YzfaQU](https://universityofexeter.zoom.us/meeting/register/tJUpcOqorz0qGNN_WIJ3_NoYp3kXP_YzfaQU)

\*\*\*\*\*

## Enquiries

Please email Sandra Kröger ([S.Kroeger@exeter.ac.uk](mailto:S.Kroeger@exeter.ac.uk)) or Catherine Dupré ([C.C.L.Dupre@exeter.ac.uk](mailto:C.C.L.Dupre@exeter.ac.uk)).

\*\*\*\*\*

## Convenors and Acknowledgements

The workshop is convened by:

[Sandra Kröger](#), Politics Department, Director of the Centre for European Studies

[Catherine Dupré](#), Law School, Director of the Human Rights and Democracy Forum

[Lise Herman](#), Politics Department, Centre for European Studies

[David Barrett](#), Law School, Human Rights and Democracy Forum

[Raphaël Girard](#), Law School, Human Rights and Democracy Forum

[Stephen Skinner](#), Law School, Human Rights and Democracy Forum

The convenors gratefully acknowledge the financial support of discretionary research funds from the College of Social Sciences and International Studies at the University of Exeter.

\*\*\*\*\*