

Grassroots for Europe Round Table # 22 – Tues 8th February 2022 Report

“What next for UK’s democracy - Orbanisation of the UK?”

Speaker: Professor Laurent Pech

Session Context

Professor Laurent Pech focuses on the new autocrats' playbook, explaining briefly how this playbook has been implemented in Hungary and then Poland. He will explore the evidence pointing to fact that the UK is now facing the start of a process of democratic and rule of law backsliding which he describes as the “orbanisation” of the UK...

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Overview:

Professor Pech outlined his research on Rule of Law Backsliding - otherwise known as “autocratic playbook”, or “autocrats’ playbook”. (Slides attached) Rule of Law Backsliding is shorthand for Democratic and Rule of Law Backsliding as it impacts directly on human rights. It is a deliberate and planned dismantling of checks and balances by relevant national authorities with the aim of undermining the rule of law and the long-term goal of creating a one-party state. Although still superficially a democracy, everything would have been captured from within by the ruling party, leading to the rise of an autocratic regime of the type we believed to be a thing of the past in Europe. Some of these processes are being implemented in the UK.

Key Steps: It is possible to identify key steps in this “constitutional capture” and the creation of a de-facto one-party state.

Starting point: A significant proportion of citizens lose faith in system of government (governance), for example because of corruption of the ruling elite or rising inequality. A significant proportion willing to listen to a new breed of politicians, who play on this resentment. It could be argued that Brexit fits this scenario.

Development: Once the new breed of autocrats gains power through free and fair elections, they move on and spend the rest of their mandate undermining and capturing the system, making it impossible for future elections to be fair.

Process: Attempt to capture the supreme court and/or the local constitutional court as well as the public broadcaster which are then used to convince the electorate that what is being done to the judiciary is legitimate.

A red flag warning is the use of “The will of the people” which indicates politicians trying to break the system, usually illegally. They argue that legality is not important as they are the true embodiment of “the will of the people”. Other authorities targeted (usually simultaneously) are the police force, tax authorities and the Electoral Commission for use

against any protest and to cover tracks of illegal behaviour. So far there are no signs of attempts to capture the taxation system in the UK.

Parallels may be drawn in the UK with the role of the Metropolitan Police and proposed legislation on the Electoral Commission. The puppet broadcaster springs to mind when we consider the treatment of the BBC. Judicial review is also under pressure.

Usually just before the next elections the new autocrats engage in bribing the electorate with “benefit giveaways”. The electoral rules are often changed and the electoral referee (UK = Electoral Commission) is captured. In the UK so much is happening on the electoral front that it is feared the next election will not be fair. Once autocrats are elected and the system completely captured a peaceful rotation of power is virtually impossible.

Outcome: these processes essentially lead to fascism – the system is broken in the name of a higher authority which in reality those involved do not represent.

Europe: Poland topped the 2020 world league of “autocratisation,” moving just ahead of Hungary. Although not yet a dictatorship, Poland has dismantled checks and balances most rapidly, especially by undermining the independence of the judiciary. This is frightening, as the EU was set up to prevent “rule of law back-sliding”. Also in the top five is Serbia, an EU candidate country, whose candidature the EU should not contemplate, as allowing entry would lead to more undermining of EU institutions from within.

UK: Is in the early stages of being in the top ten of backsliding countries. Its systems may be more resilient, but current trends indicate that it is only a matter of time. Professor Pech’s direct comparison of the UK, Poland and Hungary (December 2020) has proved to be correct. The UK situation has deteriorated, with exploitation of “will of the people” rhetoric to bully opposition. We need to be aware of where we are heading as indicated by current trends. Twenty years ago, lawyers assumed that the EU would progress though greater compliance with democracy, human rights and the rule of law; this is no longer the case. Backsliding is happening everywhere, not just in the EU, with the US and UK requiring serious consideration. The Rule of Law needs to be constantly defended.

Question and Answer

Question: What as mostly local grassroots organisations should we do to combat the rule of law backsliding?

Answer: Communicate the threats posed by this to raise awareness and share information, as widely as possible to encourage people to take action. Seek to undermine and slow down the government’s march to autocracy and dismantling of the constitutional checks and balances, by using whatever means possible.

The Good Law Project has been successful in this so far, by using legal avenues. It should be supported whenever possible. The Labour Party do not yet seem fully up to speed on the task and aware of the gravity of the UK situation. Drawing their attention to the backsliding and warning of the risks to future free and fair elections next time would be useful.

The good news is that hopefully the devolved administrations in Scotland, Northern Ireland and Wales will hopefully resist attempts to grab all decision making by London or “English colonisation”.

Question: [How or from whom is there hope to be found in counteracting the rule of law backsliding and would the example of Libéro in Switzerland provide an example?](#)

Answer: I am not familiar with this Swiss movement, yet so could not comment at this point. Further hope is provided by the fact that the UK is not currently listed in the top ten of countries heading down the road towards “Constitutional Capture,” by the authoritarian right.

Romania had a brief flirtation with this road 2017-19, but a corrupt government was turfed out of office before it could fulfil its aims. Poland and Hungary’s governments have been much smarter. It took Orbán ten years to capture the Hungarian state institutions fully. His control is so complete that even if the opposition were to win elections there this April, the government may not last long, such a tight grip is held on decision making at all levels by Fidesz. Even EU funding has been used to further his regime and extend the ruling party’s control of the state. A new Tory leader may be more successful at state capture than Johnson, as it may be less prone to distraction and incompetence.

Question: [Do you have any thoughts or views on the Russian influence on the process here?](#)

Answer: Russia, Turkey and Venezuela have been the models used by autocrats. There is Russian influence in this process. Putin was regarded as a role model by Orbán. Both Polish and Hungarian regimes have extensive bilateral links with the Russian regime and through the private legal profession too. Unfortunately, the EU had been unaware of the extent of the threat and undermining going on from within over ten years and has been subsidising it with its funding programmes indirectly. Though that is about to stop.

Question: [Would the EU let Serbia join under the current circumstances \(in the top ten of rule of law backsliding\)?](#)

Answer: The EU is not about to let Serbia join at present. Orbán will try to help push accession. Hungary’s Enlargement Commissioner had revised reports (censoring complaints on rule of law violations) on the convergence of Serbia to make them more likely to facilitate accession of another authoritarian regime. There is a risk of the “gangreenisation” of the EU, with internal attempts to undermine its commitment to the rule of law. As Chancellor, Merkel was reluctant to take measures to combat the problems with the rule of law. There seems to be a much wider acceptance and understanding among EU Member States and institutions of the fundamental threat posed by the actions of certain of their number.

The President of the European Court of Justice recently stated that the Polish actions on their Supreme Court have put the whole EU legal order at stake. The EU now has financial mechanisms to combat individual states from undermining from within. It needs to use them.

Question: Have you looked into US lawyers involvement in the EU, with regard to this rule of law backsliding?

Answer: No, I have not yet and was not aware of any. Sometimes the supporters of the autocratisation activities use private legal means to pursue their goals. They intimidate and bully public critics into submission. In Hungary, there has been a repeated approach to removing opposition:

- Attempt to buy off opponents, with offers of work, (with gagging conditions on Orbán criticism)
- Research budget removed (for academics)
- Phone tapped
- Family members lose jobs

In Hungary, a climate of fear for the opposition has been created, so people will not state critical views. Widespread spying on opposition groups. There is no need to torture when people's livelihoods and careers can be removed.