

RESPONSES TO TRACK NINE

I think there is little dispute this week. Zoe Fiander is not alone in agreeing 'with the main thrust of this track' I am glad to say (!) and many of the interventions are stand alone remarks of great interest and quality. So my comments can, I think, be fairly brief this week.

WHERE LAW FITS

I am absolutely with Holly Bontoft on the right role for law, so long as it is specific and detailed, 'the tool in our toolbox' as Chris Garrigues so neatly puts it. As Favio Farinella says in the course of his remarks, 'basic rights' are 'simply containers for what really matters: their content' and that content is, I'd say, filled by the political process and takes shape as detailed law. But human rights law must never, ever take total hold as the 'game of chess with the victims' that Chris so brilliantly describes in his highly engaged post.

Certainly there is a dilemma here, one Carol Harlow identifies – if you do not leave it to judges you leave it to the political process, but then I am fine by that as is Carol (on the whole) from what she has said here. I like Paul Bernal's idea of the law following 'the mood and the needs and the rights of the people' rather than leading them.

The point is to fight within the democratic process for the sorts of particular laws that properly implement our human rights. Sure the task is vast (read Chris and also Craig Valters's excellent post on this) but just because it is 'monumental' indeed 'nearly insurmountable' (Craig's words) does not mean (and Craig knows this) that we should not attempt it.

NOT BEING AFRAID OF BIG AMBITIONS

And actually I don't think it is quite as near-impossible as Craig assumes: I am more of an optimistic about social change.

Thinking now about Christina, being an 'idealist' is good! But I know, with Richard Buck, that 'we must work with the type of politics we have, rather than the enlightened politics we might wish for.' In the end it is also a matter of power and solidarity, as Richard's second post says. And part of this project's goal is to get human rights people to think about power, and to be less worried by it, to lace their idealism with the hard edge of political ambition.

While Richard is right (in his first post) that sometimes a court case can stimulate a terrific reform, with government getting involved in making sure that good cases stick. But Richard's post is also – as he intends – a warning that this can go wrong too. The question I suppose is whether to allow a system to produce these ups and downs, as the US system does. Because I feel the downs are more likely than the ups I am being careful about giving the judges this kind of power.

Christina mentions the really fascinating effort by lawyers to use the Equality Act 2010 to challenge quite fundamentally government economic policy. It will be interesting to watch (but surely barely believable that it will work).

DEBATING SOCIAL RIGHTS

Good to see Virginia Mantouvalou taking up my invitation, and showing how much we actually agree despite our laying out different sides to this argument in our book. You can read a lot more about what each of us has to say on this perennially interesting topic in [Debating Social Rights](#) – out very soon I am reliably informed.

STEPHEN'S PLIGHT

And finally thank you Caroline Mockett for your link to [Stephen's story](#) – I have certainly signed and right in point from a human rights point of view. It is a shocking tale.