

DOUBLE STANDARDS

conor gearty

Shortly before he became Prime Minister, David Cameron launched the Conservative Party's Annual Human Rights Report. In it the Party called in exemplary fashion for an increase in human rights protection around the world. Introducing the Party leader, a young man from the Democratic Republic of the Congo (a former child soldier) praised the Party's emphasis on 'responsibilities' as well as 'rights'. He then went on to give a moving endorsement of British law, and in particular the Human Rights Act without which – he went on to say – his claim to asylum would never have been successful. Woops. No one had told him the Conservatives wanted to repeal the Act, that human rights were for everybody – except those over whom this Party hoped to be able to exercise control.

This kind of double-standard is par for the course so far as human rights are concerned. The more powerful a state is the easier it finds it to be hypocritical in its conduct without any serious risk of this being noticed or mattering very much if it is. For years the US has lectured the world on human rights and occasionally started revolutions elsewhere on the basis of them, all the while resolutely refusing any proper critique of its own human rights record, at home or abroad. (This is not just the obvious – Guantanamo and so on – but extends to such basics as children's rights and the death penalty and much else besides.) Israel is keen to advertise its 'western values' through its special trading relationship with the EU and its participation in such events as the Eurovision song context and various European football competitions – but we hear very little from this beacon of democracy and human rights about agitating to be allowed to sign up to the European Convention on Human Rights with its judicial oversight from Strasbourg – which for example even Turkey and Russia have managed to do.

Now the Vatican has joined the list of places which talk a good human rights game abroad but can hardly be said to be practising what it preaches at home. Towards the end of May the Pope's butler Paolo Gabriele was arrested, or so it was eventually acknowledged - the Vatican doesn't do due process like the democratic world. It seems Gabriele was then sent to the Vatican cells where he has been kept through the early months of the Summer, until a sudden announcement (from the press office, rather than any kind of judicial officer) that he had been 'released on parole', in fact placed on house arrest. It seems a 'Promoter of Justice' will determine whether charges are to be brought, and if they are a 'Vatican judge will then decide whether he will face trial or be acquitted'. According to media reports in Italy, a sentence of 30 years could be meted out, albeit at this point the butler would need to be transferred to an Italian prison. Meanwhile we are assured by Gabriele's lawyer that the butler had acted entirely on his own and as an 'act of love' towards the pope.

Well what would you say, after months in a cell in the sweltering heat of the Vatican and facing a tribunal that might jail you for thirty years? Let's substitute the words 'Beijing authorities' here for the Vatican and 'defiant bishop' for 'the Pope's Butler' – what a fuss the Vatican would now be making, about freedom of religion, freedom from arbitrary detention, liberty of conscience, and so forth? And as for the 'act of love' our hypothetical Bishop is now said to be expressing towards

the Communist Party – obviously unreliable, after two months in isolation in detention and with the fear of greater punishment to come?

And it has to be said that even Chinese laws are easier to access than those of the Vatican. The web site of the Holy See takes you to a Vatican City State site, the section on the governance of which begins with the simple statement that ‘The form of government is that of an absolute monarchy’ [‘La forma di governo è la monarchia assoluta’]. Short summaries of the further disposition of power then appear. The ‘Fundamental Law of Vatican City State’ promulgated by John Paul II on 26 November 2000 has more on the nature of the Vatican flag than on the rights of anyone who might be affected by the exercise of executive power. Both the Holy See and the Vatican City State have signed up to various international Conventions - but these have not included anything so specific as the European Convention on Human Rights, with its prohibition on inhumane treatment, its demand for fair trials and its requirement that detention be non-arbitrary.

This insulation from European human rights norms doesn’t matter so long as they keep the butler holed up in the Vatican. But it could become important if Gabriele ends up in an Italian prison. For Italy is bound by the Convention and - more to the point - an individual can take a case to the Strasbourg court if he or she can show him or herself to be a victim of a violation. I have written here before about an earlier case in which nullity proceedings in the Vatican which needed to be enforced by Italy were found wanting in a case against that country. If Gabriele found himself languishing in an Italian prison, at the very least there would be an arguable case that the detention was unlawful, not least because the process that led to his incarceration had been fundamentally flawed. It is impossible to tell how such a case would go – but clearly the hearings would be very embarrassing to the Vatican and its absolute ruler.

Does the Holy See want to have the Vatican state’s procedures exposed to scrutiny by the very court that has been at the forefront of establishing a secular, multi-cultural identity for Europe? Expect a retreat by the authorities, aided and abetted by further fulsome apologies from the errant butler. Rome can go back to holding forth on the international stage safe in the knowledge that it has avoided scrutiny of its own behaviour. But a nasty taste of hypocrisy will remain hanging in the air.