

Constitutions and Crisis – the implosion of adult social care in the UK

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Abstract

The provision of adult social care in the UK is in crisis. It's unaffordable, dangerously neglected, and seemingly unresponsive to legal challenges or market forces. Under-cover journalism and whistle blowing appear to be the primary regulatory devices. This paper starts by describing the contours of the crisis, situating it in an historical and persistent liberal failure to value caring for the vulnerable and the elderly. It then draws on recent decisions of the UK Supreme Court to argue that the current manifestation of crisis has constitutional dimensions. There are at least two intertwined constitutional elements at stake here. The first is the social democratic settlement achieved at the end of the Second World War and codified within the National Assistance Act 1948. The second is the rule of law and the authority of the judges. The paper then considers the potential resolution of this crisis and suggests that rights and the rule of law are in the process of being abandoned. Hopes of social progress are now invested solely in technology. Tentative conclusions about the consequences for the role of law are proposed.