

### **Paragraph one:**

Similarly, it would appear impossible for Parliament to regain powers devolved to Scotland, Wales, and Northern Ireland, although this was sentiment mirrored with the UK's exit from the EU being labelled 'very unlikely'.<sup>1</sup> In reality, it is a political impossibility for devolved powers to be regained. If anything, the success of the SNP in recent times indicates the potential breakup of the Union. This is significant as it indicates that Parliament does not have the 'right to make or unmake any law'<sup>2</sup> as to do so in some areas would lead to their own political downfall.

### **Paragraph two:**

In his work, Weinrib suggests that tortious liability should be attached based on a causal link between a tortfeasor's voluntary action and a harmed party.<sup>3</sup> This view is artificial as it fails to provide an alternative to violent retaliation when used exclusively. Perry argues that, in focusing solely on causation, Weinrib fails to ascribe any obligation to compensate.<sup>4</sup> This argument is convincing. From what Coleman<sup>5</sup> labels a primary duty for individuals to not voluntarily act wrongfully, there is nothing to proceed logically to a secondary obligation of repairing said wrongful action. ... It simply states that wrongful action has occurred.<sup>6</sup> ... This notion is then too artificial to serve as the sole basis for attaching liability when considering the purpose of tort law. It imposes liability without providing any justifiable recourse that would not be incoherent within its deontological framework.<sup>7</sup>

### **Paragraph three:**

The judgment in *Uber*<sup>8</sup> clarified that gig economy workers are entitled to certain statutory rights over their employers<sup>9</sup> where the purpose of those protections 'is not in doubt'.<sup>10</sup> ... Beyond building on *Autoclenz*,<sup>11</sup> the Court's purposive analysis of the legislation is significant in suggesting an inclination to look beyond written agreements and consider the arrangements of working conditions to prevent the exclusion of distributive burdens through employment contracts; however, this willingness may be limited. The Court's qualification that the purposive interpretation extends only to indisputable statutory rights indicates deference to parliamentary sovereignty<sup>12</sup> rather than a political stance aimed at negating the imbalanced employment relationship. In this sense, it may fail to intentionally allow for the regulation of new business models. Alternatively, as Adams outlines, this simply frames a highly political

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<sup>1</sup> PP Craig, 'Sovereignty of the United Kingdom Parliament after *Factortame*' (1991) 11 Yearbook of European Law 221, 253.

<sup>2</sup> AV Dicey, *Introduction to the Study of the Law of the Constitution* (Liberty Fund 2018) 3.

<sup>3</sup> Ernest J Weinrib, 'Causation and Wrongdoing' (1987) 63 Chicago-Kent Law Review 407.

<sup>4</sup> Stephen R Perry, 'The Moral Foundations of Tort Law' (1992) 77 Iowa Law Review 449, 483.

<sup>5</sup> Jules L Coleman, 'Tort Law and the Demands of Corrective Justice' (1992) 67 Indiana Law Journal 349, 367.

<sup>6</sup> Perry (n 4) 488.

<sup>7</sup> Perry (n 4) 487.

<sup>8</sup> *Uber BV and others v Aslam and others* [2021] UKSC 5.

<sup>9</sup> *ibid* [1]; See National Minimum Wage Act 1998 (NWA 1998); The Working Time Regulations 1998, SI 1998/1833; Employment Rights Act 1996 (ERA 1996), s 47B.

<sup>10</sup> *Uber* (n 8) [71].

<sup>11</sup> *Autoclenz v Belcher* [2011] UKSC 41.

<sup>12</sup> Dicey (n 2).

exercise in neutral terms despite delineating interests through public policy de facto.<sup>13</sup> This conception is preferred. The Court's exercise was ultimately a political one, and subsequent cases maintaining the status quo<sup>14</sup> based on purposive analysis do not necessarily indicate objectivity.<sup>15</sup>

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<sup>13</sup> Zoe Adams, 'One Step Forwards for Employment Status, Still Some Way to Go: The Supreme Court's Decision in *Uber v Aslam* Under Scrutiny' (2021) 80 Cambridge Law Journal 221, 223.

<sup>14</sup> *Tomlinson-Blake v Royal Mencap Society* [2021] UKSC 8.

<sup>15</sup> Adams (n 13).