

# Criminal justice and the Human Rights Act 1998

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Sally Ireland, Senior Legal Officer  
(Criminal Justice), JUSTICE



# Policing and public order

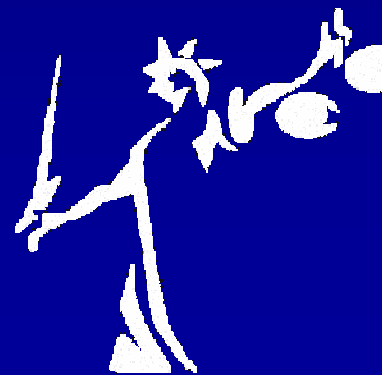
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Relevant rights under ECHR:

Arts 5 (liberty); 10 (freedom of expression); 11 (freedom of association and assembly); Art 8 (privacy)

Relevant sections of HRA:

S2 (juris of ECtHR); 3 (legislation); 4 (incompatibility); 6 (public authorities); 19 (statements of compatibility)



# Cases – statutory powers

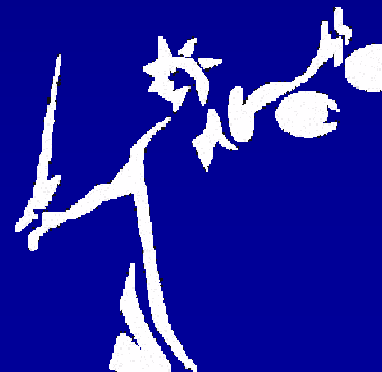
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*R (Gillan) v MPC* [2006] UKHL 12

*R (Singh) v Chief Const W Mids* [2006] EWCA  
Civ 1888

*Blum v DPP* [2006] EWHC 3209 (Admin)

See also cases under PFHA 1997



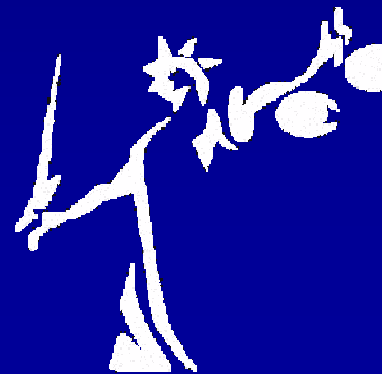
# *R (Gillan) v MPC* [2006] UKHL 12

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Ss44-47 Terrorism Act 2000

Arts 5, 8, 10, 11 ECHR

Ss3, 4 HRA



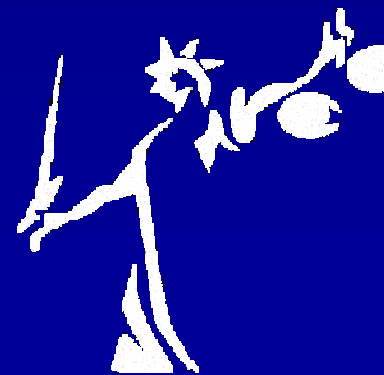
# *R (Singh) v Chief Const W Mids* [2006] EWCA Civ 1888

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S30 ASBA 2003

Arts 10 & 11 ECHR

S3 HRA



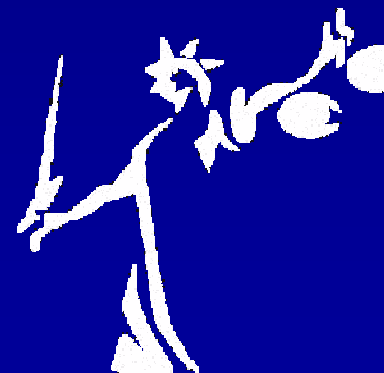
# *Blum v DPP* [2006] EWHC 3209 (Admin)

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Ss132 and 134 SOCPA 2005

Arts 10, 11 ECHR

S6 HRA



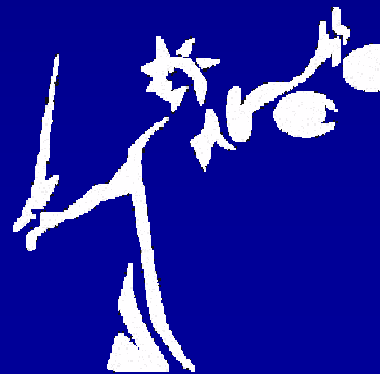
# Cases – common law powers

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*Austin v MPC* [2009] UKHL 5

*R (Laporte) v Chief Const Glos* [2006] UKHL  
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See HRA cases re G20 if they arise



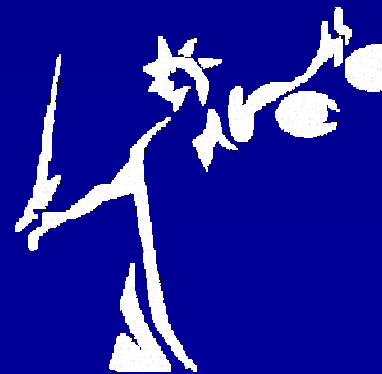
# *Austin v MPC* [2009] UKHL 5

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Breach of the peace

Art 5 ECHR

S6 HRA





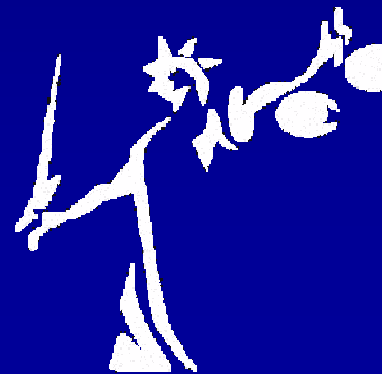
# *R (Laporte) v Chief Const Glos* [2006] UKHL 55

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Breach of the peace

Arts 10 and 11 ECHR

S6 HRA



# Legislation & codes of practice

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Extension of statutory discretions:

Eg amendments to PFHA in SOCPA

Eg ASBA (dispersal etc)

Eg VCRA (directions to leave)



# Procedural rights – crime and prisoners

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Relevant rights under ECHR:

Arts 5, 6, 7 (no punishment without law) and 13 (right to an effective remedy)

Relevant sections of HRA:

Ss 2, 3, 4, 6

Note Article 13 ECHR not incorporated in HRA



# Impact of ECHR before HRA

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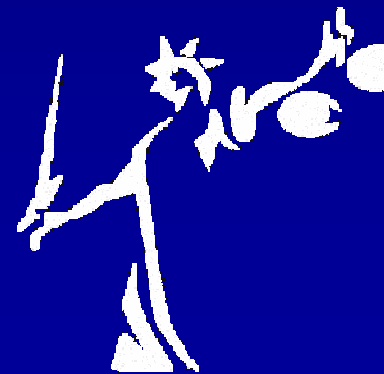
*Weeks v UK* (1987) 10 EHRR 293

- led to s34 Criminal Justice Act 1991

*Singh and Hussain v UK* (1996) 22 EHRR

- detention at HMP

*T v UK; V v UK* (1999) 30 EHRR 121



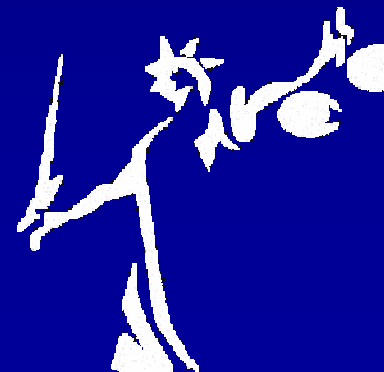
# Domestic case-law since HRA

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*R v Horncastle* [2009] EWCA Crim 964  
-hearsay, CJA 2003, Art 6(3)(d) ECHR

*R v Musone* [2007] EWCA Crim 1237  
-Bad character, CJA 2003, Art 6 ECHR

-*R v Davis* [2008] UKHL 36  
- Anonymous witnesses, Art 6 ECHR



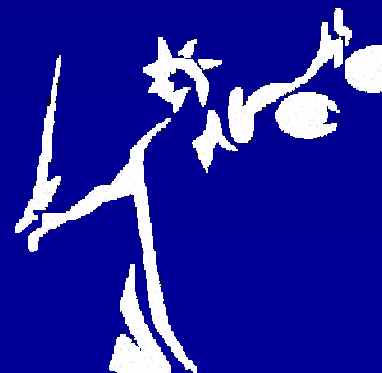
# Legislation since HRA

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Criminal Evidence (Witness Anonymity) Act  
2008

Coroners and Justice Act 2009

Criminal Justice Act 2003



# Further information

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[www.justice.org.uk](http://www.justice.org.uk)

‘Paying lip-service to Article 10: legality and the right to protest’ *JUSTICE Journal* vol 4 no 1

*A New Parole System for England and Wales,*  
JUSTICE, 2009



