

JUSTICE responds to the Government's legislation to repeal the Human Rights Act



The Government has today published its legislation to repeal the Human Rights Act. JUSTICE believes that this legislation will severely weaken rights protection in the United Kingdom, cause unnecessary legal uncertainty, have serious consequences for the devolved settlements and Good Friday Agreement and is inconsistent with our international obligations under the European Convention on Human Rights. This is another example of the Government seeking to avoid accountability and reduce its obligations when individuals' human rights are breached by the State.

JUSTICE published a detailed response to the Government's consultation on Human Rights Act reform which set out our serious, evidence-based concerns with the Government's proposals. With the legislation published today, very quickly after the consultation fully closed on 19 April, those concerns sadly remain unaddressed.

JUSTICE's view is that the Human Rights Act has been operating well for many years, enabling ordinary individuals to enforce their rights in UK courts and hold public authorities to high standards, whilst maintaining Parliamentary sovereignty. This is not just our view. The Government's own independent review, chaired by the distinguished former judge Sir Peter Gross, concluded that the Human Rights Act was 'generally working well' and proposed only modest reforms. However, this Bill bears no resemblance to the exercise conducted by Sir Peter. There is a lack of compelling evidence for such a radical overhaul of the human rights protections we all benefit from.

The Government is seeking to 'pick and choose' when human rights can be applied and in what context. For example, by setting new complicated legal tests, it is seeking to reduce the scope of positive obligations, where victims of crime have challenged the police for inadequate investigations and seriously unwell hospital patients have challenged negligent care. This will undermine a human-rights based approach to public services which we all benefit from. Other measures, including the proposed permission stage for human rights claims will only increase the length, cost and complexity of human rights litigation for claimants and public body defendants. It is a recipe for completely unnecessary legal uncertainty.

Several of these proposals, such as restricting domestic human rights claims relating to overseas military obligations and further restrictions on individuals' ability to rely on their private and family life rights in deportation cases, will not only have a huge impact on individuals but are inconsistent with our obligations under the European Convention on Human Rights. This will only lead to a significant increase in cases against the UK being brought in Strasbourg, rather than being determined in UK courts and tribunals, undermining a key part of the rationale for this legislation. In fact, this legislation has many examples of the Government seeking to restrict what UK judges can consider when deciding human rights cases.

Finally, we are very concerned as to how these proposals will impact the devolved nations. The HRA is deeply embedded in the devolved settlements and reflects the different interests, histories, and legal traditions of all the constituent parts of the UK. These proposals seriously risk upsetting our delicate constitutional balance. Further, given the centrality of the ECHR to the Good Friday Agreement, the proposals could have significant consequences for the peace settlement in Northern Ireland.

JUSTICE urges Parliamentarians of all parties to seriously consider the long-term consequences of passing such an ill-thought out, divisive, and damaging piece of legislation. This is the moment to defend the Human Rights Act that protect us all.

JUSTICE Chief Executive, Fiona Rutherford said:

“The legislation announced today has no compelling evidence base behind it but risks increasing legal uncertainty and therefore costs, our devolved settlement, the UK’s international law obligations, and the everyday rights protections people in this country rely upon. At a time when there is war in Ukraine, victims left waiting for years in our criminal justice system, and a cost-of-living crisis, it is extraordinary that the Government have decided to prioritise such a divisive and ill-thought out piece of legislation. This is surely the first Bill of Rights in history brought by a government that seeks to limit the human rights of those it governs.”

Notes to Editors

1. JUSTICE is an all-party law reform and human rights organisation working to strengthen the justice system in the United Kingdom. For more information, please visit www.justice.org.uk
2. JUSTICE has a long history of work relating to the Human Rights Act 1998 and was involved in the process of drafting the HRA, and in subsequent training of judges on its operation. JUSTICE has contributed to various public debates and consultations relating to a British Bill of Rights and have intervened in numerous cases involving the HRA. Most recently JUSTICE responded to the Independent Human Rights Act Review Call for Evidence, which can be read [here](#), and the Bill of Rights Consultation which can be read [here](#).
3. Please direct queries to Maddy Breen, at mbreen@justice.org.uk