

The Independent Human Rights Act Review Round Table

with

Human Rights Organisations

Date: 27th April 2021 – 16:00-18:00

Attendees

IHRAR Panel & Officials	Human Rights Groups Attendees
Sir Peter Gross	Charles Hamilton - Equality and Human Rights Commission
Alan Bates	Naomi Lumsdaine - Equality and Human Rights Commission
Maria Cahill	Barbara Bolton - Scottish Human Rights Commission
Lisa Giovannetti	Les Allamby - Northern Ireland Human Rights Commission
John Sorabji	Louise Whitfield - Liberty
Oliver Burrows	Tansy Hutchinson - Equally Ours
	Rachel Logan - Amnesty International UK
	Alison Pickup - Public Law Project
	Jennifer Ang - JustRight Scotland
	Brian Gormally - Committee on the Administration of Justice

Operation of the Human Rights Act

On the topic of the operation of the Human Rights Act (HRA), the following points were made by attendees:

- The HRA is working well, both in terms of its practical application and its technical operation. The Act is carefully constructed and maintains a good balance between parliamentary sovereignty and the ability for individuals to enforce their rights.
- Human rights are the hidden foundations of our lives and laws. The ECHR, as a treaty, is the most secure protection of rights we have.
- The HRA has succeeded in its primary goal of bringing rights home. Section 3 and remedial orders are a very powerful means to scrutinise and challenge the executive.
- The HRA is very well thought out, and its clarity and certainty is essential. Any change in direction by the UK government, even minor amendments to its operation, could undermine the guidance and information that has built up over 20 years. If changes were to be made, it could hamper this understanding that has been slowly and carefully fostered by human rights organisations and civil society.
- A single approach to human rights across multiple jurisdictions is of significant benefit to civil society and charities, as it enables them to draw on human rights jurisprudence from other Convention States. Any divergence from Strasbourg would hinder their ability to do so, and thus pose difficulties for the work they conduct.
- Cases that go to court are the thin end of the wedge, the HRA is embedded into the work of all public authorities and its impact has only improved over time. It has fostered an everyday human rights culture in the work conducted by all public authorities.
- The HRA is successful in its day-to-day operation, both in the courts and outside, for the most part without controversy. It is embedded in the work of all public authorities, and it often acts to stop cases before they go to court. Criticisms often focus on those rare high-profile cases, ignoring the fundamental support it provides on regular basis.

- The HRA has been used to challenge delegated legislation in ordinary situations and is not confined to the high-profile controversial cases that make it to the media. Attendees agreed to share these examples.
- The HRA has been carefully incorporated into the devolution settlements. Any changes to its framework need to consider its wider impact on the devolved nations.
- The main issues with the HRA are outside the Independent Human Rights Act Review's (IHRAR) remit. There needs to be better access to justice and legal aid.

Civic Education

On the topic of civic education, the following points were made by attendees:

- The public need a greater understanding of their fundamental rights, how the UK's human rights framework works, and how their rights are enforced.
- There needs to be an effort to convince individuals who have no immediate concerns regarding human rights, that protections enshrined in the HRA are vital. This work should reach out to those both hostile and apathetic to human rights policy.
- There needs to be more readily available information on rights and how they are enforced to improve understanding and shift the negative public narrative on human rights.
- There should be an improved role for schools, civil society and the media in order to improve awareness and understanding of the HRA and human rights protections more generally.
- There is a key role for government in ensuring public authorities are educated on the workings of the HRA.
- Northern Ireland has developed a significant public wide human rights based discourse. This has been built up following the peace process and work through civic society organizations and was achieved with little resource. A rights-based approach to civil society, policing, public authorities and education are invaluable. Other countries party to the Convention are taught individual rights at a young age.

Public Narrative

On the topic of the public narrative on human rights, the following points were made by attendees:

- Polls and surveys conducted by human rights organisations show consistent support for human rights and show little appetite for reform. However, this needs to be reinforced with a public narrative from Government and the media, many of whom provide unhelpful contributions to the debate.
- The review should provide an opportunity to end the consistent attempts to substantially amend the HRA, or to repeal it entirely. Conversations of this nature have gone on for too long without sufficient cause. Many criticisms from high-profile figures are inaccurate or misrepresent the true nature of the HRA.
- The impact of high-profile criticisms has international implications. Many countries pay close attention to the UK's attitudes and actions on human rights. The impact of any reforms to the HRA should pay due regard to the message it sends internationally.
- Government should be shaping the debate more positively and acknowledge the significant progress that has been made with Strasbourg.

- The pandemic has highlighted the necessity of the HRA. The fact that coronavirus regulations can be challenged on human rights grounds may go unnoticed. Many of these regulations have not been given sufficient time to be scrutinised by parliament, so the ability of the judiciary to scrutinise them is vital.
- Consistent statements of support from government would have a significant effect on the public narrative. The IHRAR should use the opportunity of their report to government to remind them of their obligations with regards to human rights, and to encourage a more positive discourse on rights.
- Attendees committed to providing surveys and polls highlighting the increased support for human rights protections amongst the public.

Ownership of Rights

On the topic of ownership of rights, the following points were made by attendees:

- The UK Government should seek to inspire pride in the ownership of human rights. British lawyers were vital in drafting the European Convention on Human Rights and our contributions were enormous. Magna Carta is the most well-known rights document, and it took a long time to get into the public mind. Changing a young statute, as the HRA is, would be unlikely to improve public ownership of rights, and would more likely add to the confusion.
- There is very broad support for human rights in Scotland, including the HRA. This has been expressed in cross-party actions, as well as motions in parliament. This forging of ownership and support should be expressed by every major political party in the UK.
- Building on the success of the HRA, Scotland has unanimously passed legislation incorporating the UN Convention on the Rights of the Child into domestic law and the Scottish Government has accepted recommendations from a National Taskforce for Human Rights Leadership to incorporate a number of other international human rights treaties. A more proactive approach to human rights policy provides greater ownership of rights for the individual.
- The HRA underpins much UK law, which is why it often goes unnoticed. It acts as a safety net, which may be why there is less attachment to it than is shown in countries with a written constitution setting out their individual rights.
- It would be a beneficial step to provide more ownership of the rights protected in the HRA. However, the Government should be cautioned against referendums on rights. Majority views on minority rights is a dangerous route to pursue.