

To: IHRAR@justice.gov.uk

3rd March 2021

The Jimmy Reid Foundation is pleased to submit evidence to the 'Independent Human Rights Act Review (IHRAR) Call for Evidence'. We have followed the advice to be succinct.

The Jimmy Reid Foundation opposes any change to the Human Rights Act 1998. The narrow scope of this independent review fails to examine the equal enjoyment of human rights in the UK. From our experience and practice we know that too often rights are ignored by duty bearers and cannot be enforced by people. We have published a report 'Our Human Rights Respected Equally, Delivered Fairly', which sets out our views in more detail¹.

In respect to the consultation our response is:

1. The consultation time of seven weeks is too short especially as this timeframe includes seasonal holidays and occurs during a pandemic. Therefore the Jimmy Reid Foundation (JRF) does not accept that the stated intention can practically be achieved "... the panel wants to consult widely and encourages the widest possible range of views from the public and interested parties in its consultations, across all four nations of the UK."²
2. The Human Rights Act 1998 (HRA) has failed to realise its potential to make the UK fairer across economic, social, cultural, civil, political and environmental rights because insufficient attention has been paid by the Government to ensure duty bearers understand and deliver the rights set out in the European Convention on Human Rights (ECHR). Therefore the narrow scope of the review entirely misses the opportunity to improve the HRA for people across the UK. The narrow scope of the review does not meet the stated purpose which is to 'consider how the Human Rights Act is working in practice and whether any change is needed.'³
3. The two key themes of the Review are: (1) the relationship between domestic Courts and the European Court of Human Rights (ECtHR) and (2) the HRA's impact on the relationship between the judiciary, the executive and the legislature. It appears that the consultation seeks to try and validate a weakening of domestic Courts' ability to adjudicate on human rights by constraining the influence of the ECtHR jurisprudence on domestic Courts. The JRF opposes any such manouveres.
4. The review appears to be pre-occupied with ensuring the courts do not impede the 'sovereign will' of the ruling Government to enact any and every

¹ At [Our Human Rights Respected Equally Delivered Fairly - The Jimmy Reid Foundation Website](#)

² Independent Human Rights Act Review (IHRAR) Call for Evidence p.g. 4 at [Call-for-Evidence.pdf \(publishing.service.gov.uk\)](#)

³ [Independent Human Rights Act Review - GOV.UK \(www.gov.uk\)](#)

policy it wishes to implement without any undue constraint from an accurate and up to date interpretation of the ECHR. The UK Parliament passed the HRA in 1998 knowing that the ECHR is a 'living treaty' and that the ECtHR has established the principle of 'margin of appreciation'. Therefore interpretation of the ECHR will evolve and develop. Human rights law is not static. The UK benefits from a panel of judges considering cases in detail and issuing decisions which are designed to be interpreted and to progress the equal enjoyment of human rights by individual member countries.⁴

5. No mention is made of the sovereignty of the Scottish Parliament to decide on compliance with the HRA as set out in Sections 29, 57 and 100 and of the Scotland Act 1998.⁵ This is a significant omission on the question of sovereignty.
6. Currently the Scottish Parliament is carving a quite distinctive role for human rights in passing laws which enjoy a broad range of support such as giving domestic effect to the UN Convention on the Rights of the Child.⁶
7. No mention is made about the implications of the HRA Review in respect of the Good Friday Agreement.⁷ This is a dangerous oversight.⁸
8. No government is above human rights law and to consider itself to be immune from criticism and review is autocratic.

Conclusion

Although the HRA was passed 23 years ago and has been in operation for 20 years, although longer in respect of certain matters in Scotland, the chosen focus is unhelpful. The implications for the UK's constitutional framework, especially the Good Friday Agreement and the Scotland Act, is a significant concern. Therefore the Jimmy Reid Foundation has concluded that the narrow focus of the review will fail to examine the HRA in a way that delivers enforceable rights and introduce consequences for duty bearers who fail to comply with the HRA. The UK human rights framework will continue to be inadequate and not meet the needs of contemporary society until rights are enforceable for people and communities across the UK.

About JRF

The Jimmy Reid Foundation is an independent 'think tank' and advocacy group focused on practical, policy proposals for transforming Scotland which are based on analysis and investigation of the current Scottish and global political, cultural and social situation. The JRF includes the full range of progressive politics in Scotland and is based on a series of underpinning principles drawn from Jimmy Reid's own radical political thinking that:

- society should be based on equality and social justice.
- people should have the democratic power to influence their workplace and social institutions.

⁴ More information at [STEERING COMMITTEE FOR HUMAN RIGHTS \(CDDH\) \(coe.int\)](https://www.coe.int/t/e/treaties/STECOM/STECOM_HR.asp)

⁵ For example at [Scotland Act 1998 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1998/10/section/29)

⁶ At [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Bill - Parliamentary Business : Scottish Parliament](https://www.parliament.scot/bills/parliamentary-business/scottish-parliament/2019-2020/parliamentary-business-scottish-parliament)

⁷ [The Belfast Agreement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/the-belfast-agreement)

⁸ 'Review of Human Rights Act could undermine Northern Ireland peace process, academics warn' by Matt Mathers Pub, by Independent 2nd March 2021 at [Review of Human Rights Act could undermine Northern Ireland peace process, academics warn \(msn.com\)](https://www.msn.com/en-gb/news/uk/review-of-human-rights-act-could-undermine-northern-ireland-peace-process-academics-warn) accessed 3rd March 2021

- quality of life should be at the forefront of political debate and not an afterthought.
- justice can only come from peace and support for human rights
- ideas, learning, arts and culture have the power to transform society and individuals.
- all these principles are underpinned by the importance of national identity and a vision for Scotland.

In pursuit of these values and objectives, the JRF conducts research, produced briefings and publications, holds events and organises an Annual Lecture.

For more information about our work go to www.reidfoundation.org

For further information on this submission contact Carole Ewart, JRF project board member [REDACTED]