

Annabel Bannister – Call for Evidence Response

I am not a lawyer but, as someone who uses the fundamental principles of the HRA on a daily basis, I would like to respond to this Review. The Review's remit is rather narrow so please see my responses in the light of a non-legal person who uses the HRA on a general level.

I fundamentally do not believe that the HRA needs amending in any way. As a piece of legislation, it works remarkably well - as we have seen from its use to mitigate areas of The Coronavirus Act 2020.

In answer to your specific questions:

1. There is no need to amend any of Section 2. In a Court case that I was tangentially involved with, a Judicial Review against a Local Authority, the ECtHR jurisprudence (a right to family life and the right to freedom of association) were both used effectively. The ECtHR adds an extra level of protection to citizens in this country, living under a Government who does not always consider the needs of the poor and disabled. All relationships and dialogue between domestic courts and ECtHR are adequate and this dialogue must be preserved.
2. It would be a very dangerous situation if the Executive were to gain any power that could not be tempered by the Judiciary. If anything, the Judiciary need to be given more independence and freedom to temper the excesses of the Executive and the Legislature. This has been seen over and over again over the last 12 months when the Executive and the Legislature enacted some very draconian powers and enabled Local Government to enact powers such as Easements to the Care Act 2015. Having an independent, informed and expert Judiciary meant that some of this secondary legislation could be successfully challenged in Court. It also meant that some of the more ridiculous interpretations of the Corona Virus Act Guidance by the local Police forces could be challenged. I would worry that the Executive has little interest in protecting Human Rights in the UK and it is vital that the Judiciary is fully able to protect 'the common man'. The current system whereby courts and tribunals deal with provisions of subordinate legislation that are incompatible with the HRA Convention Rights is adequate and works well. No change is necessary.