

René Cassin response to Commission on a Bill of Rights consultation: 'Do we need a UK Bill of Rights?'

About René Cassin

René Cassin is a human rights charitable organisation that uses historical Jewish experience and positive Jewish values to campaign and educate on universal human rights issues such as discrimination, slavery, detention and genocide.

The organisation is named in honour of René Cassin, a French Jew and Nobel Laureate who was one of the principal co-drafters of the Universal Declaration of Human Rights. Cassin founded the Consultative Council of Jewish Organisations ('CCJO'), which is the parent body of René Cassin. Cassin was also the Chair/President of the UN Commission on Human Rights, the European Court of Human Rights and the Court of Arbitration at The Hague.

Through the CCJO, René Cassin enjoys accreditation at the United Nations, and interventions made by René Cassin are presented in the CCJO's name. The organisation uses this accreditation to vocalise Jewish values within the international human rights community. René Cassin is also a partner on a variety of coalitions including the Detention Forum, the Anti-Slavery Coalition, and the Jewish Human Rights Network.

René Cassin currently runs several active campaigns and educational programmes focused on promoting and protecting human rights as well as awareness-raising around human rights issues. Among our active campaigns are a campaign for the rights of asylum seekers and migrants, a campaign to end discrimination facing Gypsies and Travellers, and a campaign to prevent slavery and human trafficking.

Our office is based in London and we have a network of supporters and volunteers throughout the United Kingdom, Europe and the US.

Question 1: Do we need a UK Bill of Rights?

The UK already has a Bill of Rights – the Human Rights Act 1998 ('the HRA') is substantially a Bill of Rights although it is not referred to as such in public discourse. There is no need to create an additional UK Bill of Rights.

The HRA codifies the protections in the European Convention on Human Rights ('ECHR') and thus gives domestic effect to the fundamental rights and freedoms contained in the ECHR. To create a new UK Bill of Rights that is specific to the UK would be a regressive step if the rights in the HRA or the mechanisms for enforcing those rights were watered down.

It is of vital importance to our campaign beneficiaries, which include:

- Migrants;

- Gypsies and Travellers; and
- those who have suffered enslavement and/or are victims of human trafficking

That international human rights standards are maintained by retaining the HRA.

Rights which are protected by the HRA include but are not limited to the right to life, liberty and security, the right to a fair trial, the right to respect for private and family life, freedom from torture, slavery and forced labour, and freedom from discrimination.¹ Further, the HRA provides that these human rights are universal and apply to everyone equally.

We value the specific protections, duties and enforcement mechanisms of the HRA, which offer vital protections for ordinary people. The Act has rightfully provided protections for minorities - from victims of slavery and/or human trafficking to Gypsies and Travellers - in circumstances where they had few other legal protections under UK law. We also value the guarantee that the HRA offers of a fair hearing and treatment for people accused or suspected of offences.

The evidence shows that the HRA has had a positive impact on people's lives, including those of our campaign beneficiaries, leading to many significant improvements in the way individuals are treated throughout society. These improvements range from changes in the way that public bodies make policy or deliver services through to opportunities for individuals to challenge poor treatment in domestic courts.

Additionally, it is of vital importance to our organisation and its membership, which includes:

- members of the UK Jewish community; and
- members of minority groups and faith-based groups in the UK; and
- Holocaust survivors,

That international human rights standards are maintained by retaining the HRA.

In light of our organisation's mission and support base, we are uniquely placed to draw to the Commission's attention the fact that the ECHR originated in the aftermath of World War II and the Holocaust, and is Europe's response to one of the gravest violations of human rights in history. Just as the Universal Declaration of Human Rights, which was co-drafted by our founder and namesake, is the United Nation's response to those human rights violations, the ECHR serves such a purpose within the European system. To replace the HRA with a new UK Bill of Rights that was not 'HRA plus' would be to denigrate the value of the ECHR, which is a practical instrument that addresses very real issues and creates meaningful standards formed in the wake of shared international experience.

Consequently, the HRA is working well and we see no reason to replace or undermine it with an additional Bill of Rights.

Question 2: What should a Bill of Rights Contain?

If a new UK Bill of rights is adopted, it should build on the HRA re substantive protections and enforcement mechanisms and provide for additional rights as opposed to subtracting from

¹ See

http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/documents/digitalasset/dg_070456.pdf

those already instilled by the HRA. As Professor Francesca Klug of the London School of Economics (LSE) describes, there are certain indicators that test whether a new UK Bill of Rights supplements the existing HRA. These indicators include the following:

- a) "Any additional rights should cover new ground, or transparently supplement ECHR rights, not rephrase current rights in the HRA. They should demonstrably enhance rights protection.
- b) There should be no additional qualifications or limitations attached to specific rights or a new general limitations clause applying to all rights to tie them to 'responsibilities.'
- c) There should be no new limitations on the scope of the rights in the HRA, which should continue to apply to everyone within the jurisdiction of the UK government.
- d) Any changes to s12 on the balance between freedom of expression and privacy should be compatible with the provisions of ECHR Articles 8/10."²

If these indicators are not incorporated into any new UK Bill of Rights, then the new Bill would constitute a regression as opposed to a progression towards the protection and enforcement of human rights within the UK.

In particular, we wish to draw the Commission's attention to section 6 of the HRA, which must be retained. Section 6 of the HRA imposes a duty on public authorities in the UK to respect the ECHR in everything they do, and makes these rights enforceable in UK courts. The 'section 6 duty' is vital to ensuring that the obligations and liberties in the ECHR become part of people's everyday lives. It allows organisations and individuals to argue for fair public services which meet the needs of everybody, including those migrants entitled to access public services. Any additional Bill of Rights must retain the public duty.

We are strongly opposed to any dilution of the protections contained within the HRA or the enforcement mechanisms associated with them.

Question 3: How should a Bill of Rights apply to the UK as a whole, including its four component countries of England, Northern Ireland, Scotland and Wales?

If the UK Bill of Rights is adopted to supplement the HRA, it should ensure that all individuals in the UK enjoy an equal level, quality, and accessibility of protection and enforcement of human rights. Of course, devolution settlements and cultural and legal diversity of each country should still be respected.³

Question 4: other views which René Cassin would like to put forward at this stage?

As mentioned above, René Cassin is a charitable organisation that uses Jewish historical experience and positive Jewish values to educate and campaign on universal human rights issues. Our organisational mission draws on that of our namesake, René Cassin, whose life-

² 'A Bill of Rights that is Human Rights Act plus: what are the minimal indicators?' Professor Francesca Klug, LSE, January 2010. See <http://www2.lse.ac.uk/humanRights/research/projects/humanRightsFutures.aspx> [\accessed 1.11.11]

³ As 2 above.

time commitment to human rights was significantly informed by his personal response to the Holocaust.

Although today Jewish people no longer are in a position of extreme vulnerability where they need to rely on legal mechanisms in domestic law to enforce and protect their rights, we are conscious that this was not always the case. We see the experience of vulnerable people in our society such as migrants, Gypsies and Travellers, and victims of slavery and human trafficking, and are all too aware how vitally important the protections offered by the HRA are to these people, and to our society as a whole.

As such, René Cassin urges the Commission to ensure that the existing HRA is protected, and that any changes build upon the safeguards already provided by enshrining additional rights in law, rather than subtracting from them. Legal protection for human rights could be seriously limited by the repeal, amendment or replacement of the HRA.