

Human Rights Act: Background paper for teachers

1. What is the Human Rights Act?

The Human Rights Act (HRA) incorporated the European Convention on Human Rights (ECHR) into British law, and meant that the rights set out in the ECHR could be used by judges in all UK courts. These include the right to life, to be free from torture, to fair trial, to private and family life, to freedom of expression and religion and to education.

The HRA was passed into law by parliament in 1998 and came into force in 2000. It was passed by the Labour Government with support from the Conservative and Liberal Democrat parties.

All laws have to be compatible with the HRA. If necessary the higher courts can issue a 'declaration of incompatibility' asking parliament to bring a certain law in line with the HRA. The Act also requires all public authorities – the police, schools, hospitals – to comply with the Act. This means they have a duty to prevent an individual having their rights violated.

2. What has the HRA got to do with Europe?

Before 2000 if someone wanted to claim that their rights had been breached under the ECHR they had to take their claim all the way to the European Court of Human Rights (ECtHR) in Strasbourg. This could take a number of years and was expensive. The passing of the Human Rights Act was described as 'bringing rights home'.

The ECtHR comes under the Council of Europe. This institution is not related to the European Union. Brexit will not mean the UK coming out of the ECHR.

3. Calls for change

Ever since it came into force media and political discourse about the Human Rights Act has been very critical. The Act is seen as preventing foreign terrorists being deported or giving criminals more rights. The stories of ordinary people benefitting from the Act (as in the film Sunrise, not Sunset) are seldom told.

4. What does this change look like?

At the 2015 general election the Conservatives pledged to scrap the HRA and replace it with a Bill of Rights. This is expected to be similar to the Human Rights Act but it allows for this and future governments to make changes to the Bill of Rights. For example, provisions could be added such as limiting human rights protections for (suspected) criminals and terrorists or preventing British military abroad being charged under the HRA. The Conservative Government has pledged to take the UK out of the European Convention on Human Rights.

5. What are the positive stories?

As well as the case in the film, there are many cases of ordinary people benefitting from the Human Rights Act. Many are available on the Equally Ours website which has a category for stories involving children and young people.

<http://www.equally-ours.org.uk/stories/>

<http://www.equally-ours.org.uk/category/children/>

6. What is being done?

Human rights charities such as Rene Cassin, Amnesty International and Liberty are running campaigns to raise public awareness of how the Human Rights Act helps ordinary people. It is anticipated that the government will put a vote to parliament so repeal the Human Rights Act. By then it is hoped that many more people will know its benefits and be willing to petition their MPs to vote to keep the Human Rights Act.