8th Periodic Cycle

SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE

The UK's compliance with the International Covenant on Civil and Political Rights

The British Institute of Human Rights

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ABOUT THE BRITISH INSTITUTE OF HUMAN RIGHTS

The British Institute of Human Rights (BIHR) is a charity working in communities across the UK to enable positive change through the practical use of human rights law. We work with people to provide the information they need to benefit from their rights; with community groups to advocate for social justice using human rights standards; and with staff across local and national public bodies and services to support them to make rights-respecting decisions. This enables us to call for the development of national law and policy which truly understands people's experiences of their human rights.

ABOUT THIS SUBMISSION

This submission will look primarily at Section II of the State report: Constitutional and Legal Framework within which the Covenant is implemented – specifically:

A) Reform of the Human Rights Act; and
D) Awareness Raising

This submission will offer questions for the UK Government, legal analysis, real-life stories, and recommendations based on BIHR's direct work in each of these areas.
BIHR has undertaken significant work in relation to the UK Government's plans for reform of the Human Rights Act (HRA). We worked with over 400 people to create a submission to the independent review and supported people with lived experience of using the HRA to speak directly to the review panel.

BIHR also works on human rights awareness-raising on a day-to-day basis. We create workshops, programmes, and resources to support people to understand and apply human rights law in their everyday lives and work. We incorporate co-production and lived experience expertise into our work to complement our legal and practical knowledge. Together, these elements tell an important story that needs to be shared about the everyday value of our human rights.
We aim to encourage the UK Government to engage fully with the ICCPR process as a way to assess progress and improve accountability in relation to its human rights obligations.

This submission makes 2 very clear recommendations.

a. The UK Government must commit to protecting human rights for everyone in the UK in a real and practical way by both ensuring they can access their rights through Section 3 of the HRA and ensuring adherence to our international obligations, including respecting interim measures.

b. The UK Government must implement a programme of mandatory human rights training for public body workers together with awareness-raising campaigns for the general public. The Government must lead by example, making it clear that the UK places great importance on adherence to the rule of law and on informed, considered, and transparent law-making.

This submission can be published on the ICCPR website, and BIHR will make it publicly accessible at www.bihr.org.uk.

PARAGRAPHS 10 – 13: REFORM OF THE HUMAN RIGHTS ACT

Question:

Given the government-commissioned independent review in 2021 found overwhelming support for the Human Rights Act, how does the UK Government explain the actions which followed - notably, moves to first scrap the Human Rights Act (which provides domestic implementation of a range of ICCPR rights) altogether and later disapply it to people in particularly vulnerable situations?

Legal issue:

In summary: Despite the independent review panel finding overwhelming support for the HRA, the UK Government attempted to replace the HRA with its own Bill of Rights Bill that would have weakened human rights protections for everyone in the UK, distancing the UK from internationally agreed universal protections such as those in the ICCPR in favour of government-gifted ones. Although this has now been abandoned, the Government is continuing to introduce and pass Bills that disapply the HRA to people in certain situations, undermining the universality of human rights and weakening protections for everyone in the UK.

i) The UK Government must commit to protecting and advancing domestic human rights protections:

In its State report, the UK Government asserted that it had established an independent review of the HRA to ensure it "continues to meet the needs of the society it serves." The report of the Independent Review of the Human Rights Act (IHRAR) was published in December 2021. It received 150 responses with "the vast majority of submissions…speak[ing] strongly in support of the Human Rights Act."

BIHR supported 10 people with lived experience to share their experiences directly with IHRAR panel members and gathered the views of over 400 more people through upskilling and research workshops and an Easy Read Survey. Easy Read information uses small words, short sentences and pictures to make information more accessible. It is often useful for people with learning disabilities.

Through our research, we found:

- 100% of respondents said the HRA was important to them.
- 78% of respondents said the HRA is important to them as it helps raise concerns with governmental bodies that have human rights legal duties (i.e. public bodies/services).
- 74% of respondents think the HRA is important in helping them support people so their rights are respected.

You can read our full submission to IHRAR on our website.

In the State report, the UK Government highlighted two areas IHRAR would provide clarity on:

a) The relationship between domestic courts and the European Court of Human Rights:

IHRAR looked at Section 2 of the HRA, which requires UK courts to consider (but not necessarily follow) judgments from the European Court of Human Rights (ECtHR) (explained further in Appendix I). It also looked at the relationship between domestic courts and the ECtHR in detail and gathered a wide range of evidence about how this section works. IHRAR concluded that there was a good relationship between our domestic courts and the ECtHR.

This is evidenced by the fact the ECtHR rarely makes findings against the UK. In 2022, 4 judgments out of 1163 concerned the UK with two finding breaches. Five requests for UK interim measures were accepted while 12 were rejected.

However, IHRAR warned that "the development of a significant gap between UK and ECtHR rights protection…would undermine the HRA's aims and lead to an increasing number of applications, including successful applications, brought against the UK before the ECtHR."

IHRAR also considered the margin of appreciation (the flexibility given to members of the European Convention on Human Rights to decide how best to protect rights in their country). IHRAR looked at how this works in practice and found "the UK Courts have, over the first twenty years of the HRA, developed and applied an approach that is principled and demonstrates proper consideration of their role and those of Parliament and the Government." This was recently highlighted by the case of Christie Elan-Cane – a non-binary person who brought a case against the UK, arguing that the lack of a gender-neutral option on the passport form was a breach of their right to private life.

The UK Supreme Court looked at ECtHR case law and said "there is, as yet, nothing approaching a consensus" on legal recognition of non-binary identities. It therefore found there was no breach as the UK was acting within its margin of appreciation.

b) The impact of the HRA on the relationship between the judiciary, the executive and the legislature:

The HRA is one law that forms part of the UK's whole constitution and it exists to set out the rights of each person in the UK and the responsibilities of the judiciary, the executive and the legislature in upholding these rights. The HRA is an essential part of the rule of law and allows challenge to be made against the government, which includes public authorities and services.

IHRAR looked at Sections 3 and 4 of the HRA. Section 3 requires public bodies, including courts, to interpret laws compatibly with human rights if possible. If this is not possible, Section 4 allows UK courts to declare a law is incompatible with human rights (this is not a strike down power, explained further in Appendix I). It found "there is no substantive case that UK Courts have misused section 3 or 4 … There is a telling gulf between the extent of the mischief suggested by some and the reality of the application of sections 3 and 4."
In our own response to IHRAR, we highlighted the widespread support we found for Section 3 and the obligation to interpret laws compatibly with human rights wherever possible. 68% of public body staff said they used the HRA to change decisions or policies so they can better support people.

However, on the same day the UK Government published the IHRAR report demonstrating overwhelming support for the HRA, it also published its consultation on Human Rights Act Reform which contradicted the findings of the panel entirely (and which sought to repeal, not reform the Act).

BIHR worked to support people to respond to the consultation, including supporting self-advocates from learning disability groups to challenge the lack of accessible versions. 561 people used our letter template to respond, 341 accessed our Easy Read letter template, 81 attended our online workshops and 1736 accessed our question-by-question guide.

The responses to the consultation were not made public and the Government's response was released on the same day as its Bill of Rights Bill – better known among civil society as the Rights Removal Bill because it would have repealed the HRA and weakened internationally agreed, universal, human rights protections for everyone in the UK. According to the UK Government itself, in the 12,873 responses to the consultation:

- 79% of people said the UK Government should not remove the legal duty on courts and public bodies to interpret laws in a way that respects human rights, so far as possible (Section 3 of the HRA). The Rights Removal Bill sought to remove it.
- 100% of people supported the positive obligations on public bodies to take proactive steps to protect human rights. The Rights Removal Bill sought to remove them.
- 90% of people said the UK Government should not add a permissions stage to human rights claims, which would have acted as an extra barrier to people accessing their rights. The Rights Removal Bill sought to add one.

The attempts to remove Section 3 of the HRA were, and remain, of particular concern. Section 3 is a key part of making human rights real every day. This duty means when government and public bodies are making decisions about our lives and applying other laws and policies, they do so in a way that upholds our rights so far as possible.

The Rights Removal Bill was ultimately abandoned in June 2023, but the UK Government has continued to attempt to weaken Section 3 in a series of subsequent laws, including the Illegal Migration Act and the Victims and Prisoners Bill. We led a group of 46 civil society organisations in writing a joint letter to the UK Parliament's Joint Committee on Human Rights, expressing our concerns about the UK Government's attempts to weaken or remove Section 3.

ii) The UK Government must commit to adhering to international human rights obligations

With domestic human rights protections under threat, the question of how the rights of people in the UK would be protected beyond the HRA has also been brought into sharp focus with reported threats to withdraw from the European Convention on Human Rights (ECHR) or to attempt to unilaterally change our treaty obligations in relation to its Court (ECtHR). The HRA stands independent from the UK's membership of the ECHR and its parent body, the Council of Europe as it is a UK law passed in our Parliament. However, without the ECHR, an individual who did not secure the human rights protections they sought from the UK courts would no longer be able to take their case to the ECtHR. UK individuals would also not benefit from the application of interim measures from the ECtHR if the UK withdrew from the Convention.

Despite its assertion in the State report that the "government is committed to remaining a signatory to the European Convention on Human Rights (ECHR)", the UK Government have made several moves that call into question its commitment to its international obligations.

The controversial Illegal Migration Act leaves it up to a Government Minister to decide whether or not to comply with interim measures issued by the ECtHR regarding sending people seeking asylum to other countries. Interim measures are orders to take (or not take) certain steps while a legal case is ongoing and are only issued where there is an "imminent risk of irreparable damage." The Council of Europe said this "place[s] on the statute book a provision that contemplates the UK Government deliberately breaching its international obligation to comply with interim measures…It is of grave concern that this draft legislation foresees the UK breaching international law, thus undermining the rule of law. If such a provision becomes law, this would send a negative message, not only in the UK but also internationally."

The UK Government is currently trying to pass a similar clause in the Safety of Rwanda (Asylum and Immigration) Bill, which instructs decision-makers to treat Rwanda as a safe country in contradiction with a recent UK Supreme Court finding regarding the right to be free from inhuman or degrading treatment. We have written a short explainer on our human rights concerns about this Bill and the accompanying treaty, which the Parliament's International Agreements Committee recently voted against ratifying. In an updated statement in 2022, The United Nations High Commissioner for Refugees said it is "deeply concerned about the proposal to legislate to exclude a specific category of individuals – asylum-seekers – from certain protections enshrined by the Human Rights Act, including the right to challenge their removal based on European Convention on Human Rights (ECHR) grounds. This undermines the universality of human rights, has implications for the rule of law both domestically and internationally, and sets an acutely troubling precedent."

This disregard for international obligations raises concerns both about the UK Government's commitment to ICCPR rights and about the practical means by which people in the UK can ensure their rights protected. By weakening access to remedies of the ECtHR, the UK Government is removing the final safeguards designed to uphold human rights in some of the most perilous situations.

The UK Government states it commissioned the IHRAR to review, in particular, the relationship between UK courts and the ECtHR; and the impact of the HRA on the balance of powers. Despite IHRAR reporting positive findings in both these areas, the UK Government has since made moves both to jeopardise the UK's relationship with the ECtHR and to undermine the balance of powers by making it harder for people to challenge government decisions in court or to ensure that Parliament's laws are being interpreted correctly.

Stories:

Since IHRAR, civil society in the UK has come together to protect our human rights laws from Government interference. There has been much talk about the relationships between the judiciary, the executive and legislature, and substantial work to evidence that our existing legal protections are working well. Central to that conversation, yet often missing from these debates, are the stories of the people benefiting from our human rights protections every day in the UK and tangible examples of how the UK Government's actions will put people's rights at risk. We have shared some of these stories below.

Vernon's story

Vernon was a member of the "Windrush Generation". This refers to people who came from Commonwealth countries to live in work in the UK between 1948 and 1973. They were given indefinite leave to remain but the UK Home Office failed to keep records or provide any documentation. This resulted in many people being refused public services or even entry to the UK. Vernon experienced this when he went to Jamaica for his father's funeral and was prevented from returning to the UK for over 13 years.

In 2018, the Windrush Scheme was introduced to make it easier for members of the Windrush Generation to get proof of their right to remain. Vernon applied and was granted indefinite leave to remain.

He then tried to apply for British citizenship but was told that according to the British Nationality Act, he had to have been present in the UK for five years before he could do so. The court said that a clause in the British Nationality Act gave the Home Secretary discretion to waive some requirements for citizenship. By refusing to use the clause to waive the five-year requirement for Vernon, the Home Secretary breached his right to private and family life and right to be free from discrimination. The Home Secretary should have used Section 3 of the HRA to interpret the law in a way that respected Vernon's human rights.

Vernon's story illustrates just one of the many complex and nuanced issues that often arise in immigration law. Section 3 ensures that laws are interpreted with due respect to individual circumstances and human rights, wherever possible. Under the proposed Bill of Rights, there would have been no Section 3 for Vernon to rely on at all.

Even now that Bill has been abandoned, the UK Government continues to weaken the impact of Section 3 in this difficult area, having already disapplied it to the Illegal Migration Act and now seeking to do so in the Safety of Rwanda (Asylum and Immigration) Bill. Despite the UK Government's assertions that its latest immigration laws target those "with no right to be in the UK", it is important to remember that people like Vernon were also "[thrown] into turmoil because [the UK Government] did not recognise their legal right to be in the UK".

Kirsten's story

Kirsten is a single parent of an autistic son who, from the ages of 14-18, was held in mental health hospitals under the Mental Health Act. He was subjected to restrictive practices, including mechanical restraint, such as handcuffs, leg belts, and being transported in a cage, with long periods in seclusion. It was the duty to interpret other legislation compatibly with our human rights (S3, HRA), combined with the duty on public bodies to act compatibly with human rights and the human right of her son to be free from inhuman and degrading treatment, that meant Kirsten could challenge how her son was treated and secure his release.

"The Mental Health Act gave legal powers to put my child in a seclusion cell for weeks at a time. It gave powers to put my child in metal handcuffs, leg belts and other forms of mechanical restraints. It gave powers to transport him in a cage from one hospital to another… As a parent, the Human Rights Act gave me the legal framework to challenge decisions. This was so important for me as a parent facing the weight of professionals who seemed to have so much power over mine and my son's lives. I used the Human Rights Act to make timely and meaningful change to my own son's care and treatment." – Kirsten

Kirsten's story is another example of the significance of Section 3 of the HRA for people all across the UK. By weakening S3 for anyone, the UK Government weakens it for everyone and puts the rights of people like Kirsten and her son at risk.

Shaun and Aiden's story

Shaun Pinner and Aiden Aslin are British citizens and were members of the Armed Forces of Ukraine. They surrendered to Russian forces and were sentenced to death. The ECtHR issued interim measures saying the death penalty should not be carried out and that the Russian Government provide information to show what steps had been taken to protect Shaun and Aiden's human rights. The ECtHR said there was an ongoing legal case between Russia and Ukraine and both had to refrain from taking actions such as military action while it was ongoing. Shaun and Aiden have since been released and have returned home to their family and friends in the UK.

Yolande's story

Yolande and her children were fleeing domestic violence, and her husband attempted to track them down as they moved from town to town across the UK. They were referred to Social Services in their borough, but social workers told Yolande that the constant moving of her children meant she was an unfit parent and that she had made the family intentionally homeless. They said that they had no choice but to place her children in foster care. A support worker helped Yolande to challenge Social Services' decision as it failed to respect her and her children's right to private and family life. Social Services reconsidered the issue, taking the family's human rights into account and agreed the family would remain together, and that Social Services would help cover some of the essential costs of securing private rented accommodation.

Under the Bill of Rights Bill, the right to private and family life was to be curtailed, under the guise of restricting immigration. Aside from the legally highly questionable nature of these restrictions (especially in relation to international refugee law), this failed to recognise that our human rights are there to protect everyone – no matter who you are. Restricting this right for one group of people, weakens it for everyone, everyday. The Bill also set out to diminish the positive obligations on public bodies to protect our rights. This would have meant that social services would no longer have had to do anything, such as helping with some of the accommodation costs, to protect Yolande and her children's right to family life. The Safety in Rwanda (Asylum & Immigration) Bill currently going through UK Parliament similarly seeks to disapply the Section 6 duty on public bodies to act compatibly with human rights, putting the rights of people in particularly vulnerable situations – and therefore the rights of everyone in the UK – at risk.

You can read a series of blogs on Why our Human Rights Act matters to people in the UK here.

Recommendation:

The UK Government must commit to protecting human rights for everyone in the UK in a real and practical way. At a minimum, the Government must ensure existing protections through our HRA are not interfered with and, crucially, that the scope of Section 3 is not limited through the passing of other legislation. The Government must also ensure that we continue to adhere to our international human rights obligations through the ECHR, including respecting interim measures.

PARAGRAPHS 17 - 23: AWARENESS RAISING

Question:

What steps is the UK Government taking to act on IHRAR's recommendation to develop "an effective programme of civic and constitutional education in schools, universities and adult education"?

Legal issue:

In summary: Despite the UK Government's recognition of the importance of awareness raising and the role of public bodies in protecting human rights, very few professionals with human rights legal duties receive dedicated human rights training. There is even less education and awareness of human rights law among the general public. Rather than work towards a shared understanding and show leadership towards a culture of respect for human rights, we have seen this UK Government try to replace, disapply and disregard human rights obligations, based on internationally agreed universal standards. When seeking to justify the need for a rolling back of rights in the UK, the Government have often used inflammatory language resulting in further misunderstanding of how rights protections work.

In its State report, the UK Government recognises that all public authorities need to comply with human rights obligations. However, the subsequent paragraphs that discuss training and guidance focus exclusively on those already in the legal sphere: lawyers, judges and police officers.

The public bodies in the UK with legally mandated human rights obligations go far beyond this. In fact, the public bodies with the biggest and most frequent impact on people's everyday lives are often not judges and lawyers but social workers, healthcare professionals, teachers and housing officers.

IHRAR found "examples where public bodies are not aware of their own duties and responsibilities. Greater education and communication of the UK's rights protections would be a useful outcome". This has been echoed by our own experience as an organisation providing training for public body workers. In 2022, BIHR ran 300 workshops, attended by a total of 3000 people from across the UK. This included voluntary and third sector workers as well as public body staff.

The confusion is exacerbated by the fact that the delivery of many public services in the UK has been contracted out to companies or charities – creating "hybrid public bodies" that have human rights responsibilities in relation to some of the services they deliver. We find that dedicated training increases both support for and confidence using the HRA among public body workers.

For example, 100% of health & social care professionals supported the Human Rights Act after our recent training, whereas 20% had said they were "mostly against" or simply "more for than against" it beforehand. Similarly, 80% of staff in a local council said that after our training session, they would challenge or change a decision about someone's access to support or services. 100% of participants at our session for professionals working in Special Educational Needs and Disabilities said they needed further training and resources to support them to take action to protect human rights.

Alongside "greater education and communication of the UK's rights protections" for public bodies, IHRAR "strongly recommends to Government, for its consideration, a focus on civic, constitutional education as integral to ensuring that… our human rights framework, as with the rest of our framework develops and is refined to ensure it continues to meet the needs of the society it serves." For people accessing services and service providers to have collaborative and constructive conversations about human rights, both must have access to information about rights and duties.

We recently completed a Rights in Recovery Leadership Programme with Scottish Recovery Consortium – a charity supporting and advocating for people recovering from problematic substance use. After the programme, 100% of participants rated their knowledge of the rights and duties under UK human rights law as "good" or "excellent" whereas before, 80% said "average" and 20% said "poor" or "non-existent". Asked how they had put their new knowledge of human rights law into practice, respondents said, "review of partner's medicated treatment to enable them to participate with an improvement in their capacity"; "housing allocation"; and "in meetings with Public Health Scotland".

Notably, participants talked about the misconceptions they held about human rights before the programme began, saying "I just believed that drug addicts didn't have rights…" and "I realised how terribly I was let down by duty bearers when I needed help the most".

This misunderstanding about the universality of human rights is not surprising in light of recent rhetoric perpetuated by the UK Government – described by the Conservative party's Lord Garnier as a strategy of "othering…aversion [and] moralisation".

The Government's then-Home Secretary described the HRA as the "Criminal Rights Act" and said the "fight for rights undermines democracy" while the Prime Minister justified increasingly concerning immigration policies as a way of blocking "spurious human rights claims".
Not only does such "inflammatory and exclusionary rhetoric" perpetuate division and conflict around the topic of human rights, it remains at odds with the opinions of the majority of the public. For example, a recent poll from The Sun newspaper that found most people in the UK support the ECHR.

At our Human Rights Day 2022 event, lived experience experts Sian and Lucy, who support disabled people in West Wales, were asked what they'd say to the then-Justice Secretary about human rights. Sian and Lucy are members of BIHR's RITES Committee – standing for Real-Life Insights, Tips, Experiences and Stories. The committee is a coproduction group made up of people with experience using the Human Rights Act to advocate for themselves, their loved ones or people they support. They said:

"don't underestimate the power of communities and the power of knowledge... We can show you that we've got a stronger voice if we all work together…We shall keep working in preparation for the next push."

Stories:

We hear lots of stories where rights are at risk; the lesser-known stories are the everyday examples of awareness of human rights law leading to positive change in people's lives.

Joseph's story

Joseph has learning disabilities and spends several days each week at a learning centre. Sometimes he tries to harm himself by pulling out his hair or biting his own hands. Staff in the day centre started using splints to keep his arms straight and prevent him from harming himself. These were used often and for long periods of time. Staff then attended training with BIHR and realised that while splints may have been necessary in rare and limited circumstances to prevent serious harm, using them frequently was not proportionate and put Joseph's right to private life at risk. They came up with alternative ways to keep Joseph safe.

Voluntary group's story

Home office staff began conducting unannounced early morning visits at an accommodation facility for newly arrived people seeking asylum. The visits took place at dawn and no interpreters were present. Residents were woken and made to answer questions. Often those being interviewed had only had a few hours' sleep, after arriving at the facility very late at night. A voluntary sector organisation, having received human rights training from BIHR and legal advice from Liberty, challenged this practice on the basis that it interfered with the residents' right to respect for private life. They argued that there were other, more dignified ways to verify who was staying at the facility and for how long. The arguments were successful and the Home Office ceased the practice of these unannounced dawn visits.

Sandeep's story

Sandeep, David and Sally lived in residential accommodation in Newport Pagnell that was funded by Hackney Council (because they were originally from Hackney). Hackney Council were going through budget cuts and felt it would be cheaper to move Sandeep, David and Sally to units in Hackney, even though they had been settled in Newport Pagnell for several years.

Sandeep was supported by his Independent Mental Health Advocate to argue that their relocation might interfere with their right to respect for home and family life as they were living as a community or 'family' together and had a right to be consulted about the re-location. Following this, the council decided not to move them.

You can read more stories of the Human Rights Act in action here.

Recommendation:

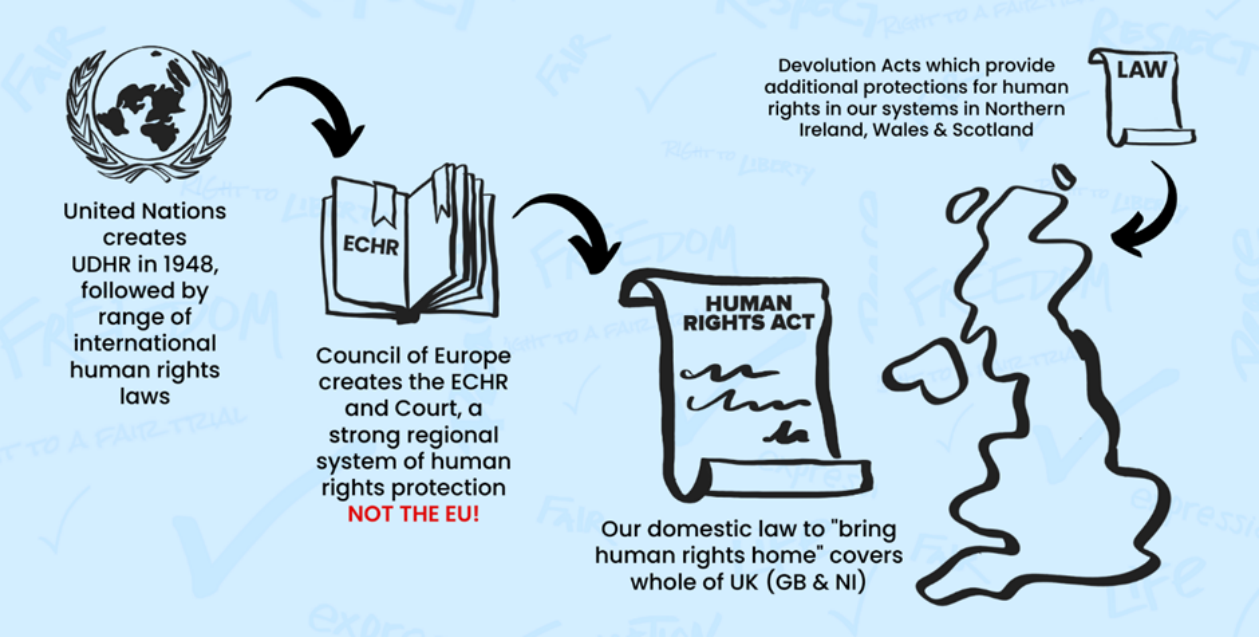
The UK Government should implement a programme of mandatory human rights training for public body workers together with awareness-raising campaigns for the general public. The Government must lead by example, making it clear that the UK places great importance on adherence to the rule of law and on informed, considered and transparent law-making.

CONCLUSION

1) Although the UK has ratified the ICCPR, the rights are best protected in practice by the HRA as the domestic law that puts them into everyday practice and provides a recourse for people who have had their rights breached. However, the HRA has come under repeated attack from the UK Government in a series of laws designed to remove human rights protections from people in the UK. Recent moves have also seen the UK Government retreat from its international obligations in relation to the protection of ECHR rights and the mechanisms designed to protect them, such as adherence to interim measures from the ECtHR. It is vital that the Human Rights Committee recognises the attacks on the UK's HRA as attacks on universal human rights, as set out in the ICCPR; the HRA is the mechanism through which these rights have legal meaning and direct enforcement for people in the UK.

2) The UK Government has also not actioned IHRAR's recommendation to improve awareness and understanding of human rights law, even among those with responsibilities to uphold it. In fact, it has engaged in dangerous and inaccurate rhetoric that has furthered confusion about the way human rights really work in the UK.

ANNEX I: HUMAN RIGHTS LAW IN THE UK



The Human Rights Act, the ECHR & The ICCPR

The Human Rights Act (HRA) brings the Articles from the European Convention of Human Rights (ECHR) into UK domestic law, which itself draws on the Universal Declaration of Human Rights. The UK's HRA therefore gives domestic effect and protection of many of the rights contained within the ICCPR. These include: the right to freedom from inhuman or degrading treatment (Article 3, HRA); to be free from slavery (Article 4, HRA); the right to liberty (Article 5, HRA); to a fair trial (Article 6, HRA); to privacy (Article 8, HRA); to freedom of thought, conscience and religion (Article 9, HRA); to freedom of expression (Article 10, HRA); to peaceful assembly and association (Article 11, HRA); and to free elections (Article 3, Protocol 1, HRA).

The HRA enables people to access their rights in the UK, both through interactions with public services and domestic courts. Section 2 of the HRA requires UK courts to "take into account" any relevant cases decided by the European Court of Human Rights (ECtHR). It does not require UK courts to follow what the ECtHR has decided. Section 3 and Section 6 together require all public bodies to act and apply other laws in a way that is compatible with human rights, if it is possible to do so. Section 7 means an individual can bring a legal case against a public body that does not uphold their rights. If all avenues in the UK have been exhausted, individuals can take apply to take a human rights case against UK governments to the ECtHR.

It is important to note that having not directly incorporated the ICCPR into UK law, the HRA is the only legal mechanism through which ICCPR protections can be given direct effect. UK courts are only able to draw on ICCPR (and other international protections) where these can provide interpretative support to the rights contained in the HRA. The situation of the HRA is therefore not merely one of domestic law, but is also of the utmost importance for the Committee's review of the extent to which the UK Government is upholding ICCPR rights.

Parliamentary Sovereignty & Human Rights

Parliamentary sovereignty is often said to be 'the defining principle of the British Constitution'. Parliamentary sovereignty means that Parliament is the supreme legal authority in the UK. Parliament can create or get rid of any law and the courts cannot overrule Parliament. No Parliament can pass laws that future Parliaments cannot change. This means that, unlike in some other countries, the ECHR does not take priority over national law in the UK.

The HRA does not limit parliamentary sovereignty. Section 19 of the HRA requires the Government to make a statement on whether any laws they are proposing to Parliament are compatible with HRA rights, but this is advisory only and Parliament could still choose to pass an incompatible law.

These laws could still be eligible for judicial review. When examining human rights claims, courts will look at whether a law could have been interpreted in a way that upholds human rights and then if it was. If a court decides that there could have been a human rights-compliant decision or application of law, then it will declare that a Section 3 interpretation was possible, and the range of remedies available could include an order to remake the decision or application of the law. However, if the court agrees there was no way to apply the other law in a rights-compliant way then, provided it is a Higher Court, it can issue a declaration of incompatibility under Section 4 of the HRA. This is not a strike down power; the law which is not rights-compliant remains in force unless or until Parliament decides to change it.

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