

news

Human Rights: The Political Landscape

As politicians trade ideas about the future of human rights protection for people in the UK, Katie Ghose reminds us of the need to be vigilant about safeguarding the Human Rights Act which is bringing positive changes to people's lives.

Hear the views of the three main political parties, alongside personal views from two leading human rights voices: *Guardian* journalist, **Afua Hirsch**, and **Professor Robert Blackburn**, Professor of Constitutional Law at King's College London.

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WELCOME

I am delighted to introduce this summer edition of BIHR News. The past six months have been a busy and productive time for BIHR. Alongside our ongoing initiatives and a very successful annual conference in January 2009, we have launched a number of exciting projects, including a series of policy seminars examining cutting edge human rights topics, our first open training courses for the third sector, and the development of three human rights films (pp.3-7).

We have also held public lectures with the three main political parties, and in this issue we explore our politicians' current thinking about human rights. BIHR Director Katie Ghose reminds us of the positive difference the Human Rights Act makes and how human rights protect us from maltreatment and abuse (p.10-11). We also open up our pages to personal views from leading commentators and thinkers on human rights: *Guardian* journalist Afua Hirsch gives us her perspectives on the current political debate on human rights (p.13), whilst constitutional expert Professor Robert Blackburn, from King's College London, tells us what a constitutional bill of rights is and his view of what it would look like if it was established properly (p.14).

Finally, we would be delighted if you were able to support our work by becoming a Friend of BIHR (see p.16). It is only with the support of our generous donors that we can continue our valuable work to bring rights to life.

I hope that you enjoy this issue.

Jean Candler,
Head of Policy
and Public
Affairs



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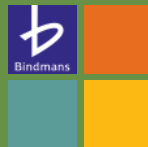
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We want to hear from you! We hope you have enjoyed this issue. Please email Emily Thomas, BIHR's Communications and Events Officer with your comments and suggestions (ethomas@bihr.org.uk).

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Human Rights and Civil Liberties

Protecting the rights and freedoms of ordinary people and challenging discrimination are at the heart of Bindmans' work - and have been for more than 30 years. Today we have one of the biggest dedicated public law departments in the country and remain a legal pioneer both nationally and internationally.

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OLDER PEOPLE AND HUMAN RIGHTS

Human rights have huge potential to change the lives of older people – especially those who face abuse, neglect and isolation, such as 102-year old Mrs S, described in Age Concern's report 'On the Right Track' (2008). The report describes how 'despite being blind, her meals and drinks were left on a trolley – in most cases without her being alerted. For the most part staff also did not offer any assistance with eating or drinking. As a result many of the meals were removed untouched. Mrs S also suffered a great indignity when she asked for a commode but was told by a nurse that she could use her incontinence pad. Staff frequently talked over her and about her'. Older people suffering this kind of mistreatment, and those who advocate on their behalf, may not be aware that all people have the right to life and the right not to be treated in an inhuman or degrading way.

BIHR is now working on an innovative three year project with Age Concern and Help the Aged to support older people to use human rights to challenge poor and often undignified treatment from service providers and local authorities.

In April, a joint report was released entitled 'Older People and Human Rights'. Lucy Matthews, BIHR's Training and Consultancy Manager, explains one of its key findings: "Although there is awareness and genuine concern over, for example, elder abuse, or older people living in poverty, these issues are rarely framed as human rights issues. Older people often don't even know that they have rights – or that local authorities are legally bound to uphold them."

Over the summer, four local Age Concern groups from different parts of the country will take part in the project. Age Concern staff and groups of older people will be trained in human rights, to empower them to influence the improvement of services and the way that older people are treated and cared for. The groups of older people will identify their own small advocacy projects which they will then implement using human rights knowledge and methods, with ongoing support.

BIHR's Third Sector Development Officer Sonia Omar looks forward to monitoring the results. She says: "it will be exciting to see the impact of human rights advocacy projects run by older people themselves. We hope to see them claiming their rights and the rights of others, and through doing so improve the quality of life for vulnerable and disadvantaged older people".

This project is kindly funded by Comic Relief. To download the 'Older People and Human Rights' report, visit www.bihar.org.uk ■



Photo: Age Concern

BIHR EXPANDS TRAINING TEAM

In response to increasing demand for our training, this year we have added a number of associates to our staff training team. The associates come from a variety of backgrounds, all with a high level of expertise and experience in designing and delivering human rights training. They bring specialist knowledge in a range of areas including: equality and diversity, health and social care, gender equality, older people's issues, disability, social inclusion and employment. You can read more about our associates on the Training/Consultancy page of our website (www.bihar.org.uk/training-and-consultancy). Just click on 'Our Training Team'. Welcome to all of them! ■



TACKLING POVERTY THROUGH HUMAN RIGHTS

Poverty is about a 'lack' – a lack of economic resources, a lack of ability to avoid ill-health, or a lack of power to influence social and political structures. Poverty is inextricably linked to human rights because human rights violations are both a cause and a consequence of poverty: they are part of what it means to be poor.

Both anti-poverty campaigners and human rights activists share a deep commitment to human dignity and both are focused on the fundamental conditions people need in order to flourish. Recognising this, BIHR is taking forward a poverty and human rights pilot project focusing on using a 'human rights based approach' to addressing poverty, inequality and the promotion of social justice. In short, human rights based approaches are the processes by which human rights principles are put into practice.

With funding from the City Parochial Foundation, Joseph Rowntree Foundation and Oxfam, BIHR will provide support to up to six London-based voluntary and community sector organisations working with people facing poverty or social injustice. These organisations and the communities they support or represent will learn how to use human rights to strengthen their voice and influence with policy makers.

The project, running from October 2009 to December 2010, will be continually evaluated. This will include supporting each organisation to develop their own human rights indicators enabling them to define and measure their progress. Learning and practical tools that can benefit a much wider range of civil society organisations will be drawn out from the project. ■

HUMAN RIGHTS INQUIRY

BIHR looks forward to the Equality and Human Rights Commission's final report on their inquiry to find out how human rights work in Britain. The inquiry was launched on 21 April 2008, and has since gathered evidence, held inquiry panels and commissioned research. BIHR has contributed to this process, submitting our own evidence, and hosting an event to facilitate the participation of voluntary and community groups in July 2008. ■

BIHR AND THE DEPARTMENT OF HEALTH DEVELOP HUMAN RIGHTS IN HEALTHCARE PROJECT

The first two years of this project saw BIHR work with five NHS trusts and the Department of Health to pilot human rights based approaches in healthcare, evaluate the impact of this, and produce learning and guidance for wider use.

The next phase of the project beginning later in 2009 will continue this work with the production of additional case studies, further evaluation, and the delivery of more national learning events, including one on social care and human rights.

BIHR is also working in partnership with Skills for Health, the Sector Skills Council for the UK health sector, to develop and deliver a programme of ten regional training events for NHS organisations.

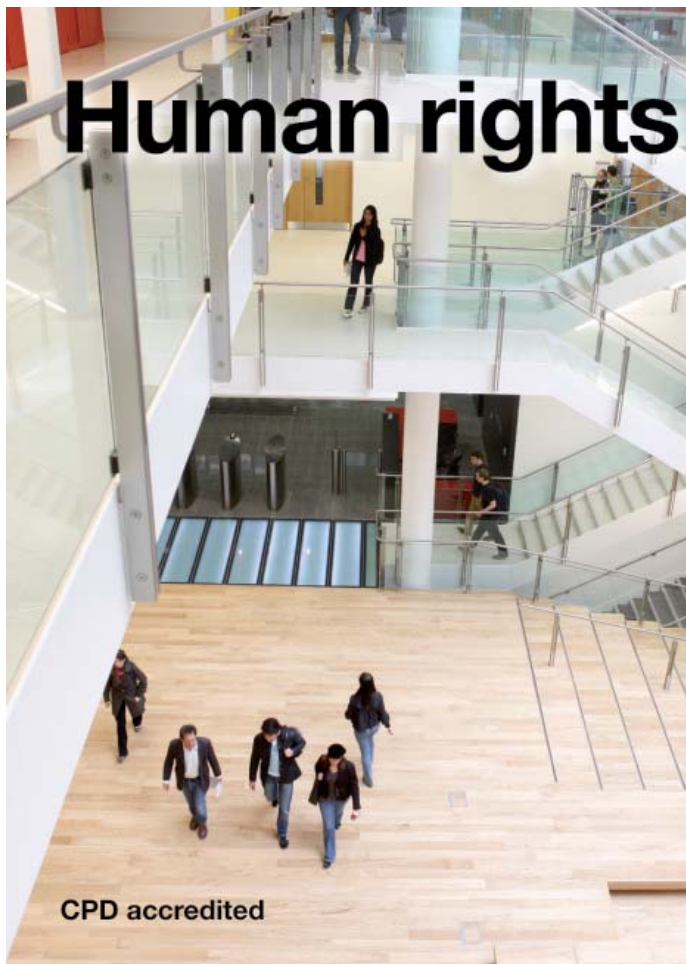
For more information about this work, see www.bihar.org.uk/projects/human-rights-in-healthcare-project ■

SUPPORTING THE THIRD SECTOR TO USE HUMAN RIGHTS

Are you a third sector organisation committed to equality, fairness and respect?

Do you want to learn more about how human rights can support your work, invigorate your messages and empower the people and communities you work with and for? If so, our new initiative is for you.

In June BIHR will begin a series of ten one-day seminars in Leeds, Manchester and London aimed at third sector organisations. Working in partnership with key national and regional umbrella organisations, each course will explore the relevance and potential of human rights to a particular issue, including equalities, disability and community empowerment. There are a limited number of bursaries available for low income organisations. For more information or to book a place, visit www.bihar.org.uk/training-and-consultancy. ■



CPD accredited

short courses

LSE's Centre for the Study of Human Rights runs a programme of short human rights courses for professional participants.

There are four courses in the programme:

- International human rights law and practice
- Law, war and human rights
- Understanding children's human rights
- Understanding women's human rights.

These courses provide a comprehensive understanding of the human rights principles relating to the area under consideration.

They are held on consecutive Monday or Tuesday evenings over six or ten weeks and taught by leading human rights practitioners and academic experts.

Course fees are £990 for a six-week course and £1,970 for a ten-week course. The Centre for the Study of Human Rights is able to offer a small number of subsidised (half price and fully funded) places to those who would otherwise be unable to attend.

For more information:

www.lse.ac.uk/humanrights

Centre for the Study of
Human Rights





LAUNCH OF HUMAN RIGHTS FILMS

When the Guerrilla Girls¹ famously redesigned the Oscar award 'to more closely resemble the white males taking him home every year', they highlighted a bias seen across the film industry, from Academy Award winners to low-budget documentary makers. Male filmmakers still overwhelmingly dominate, while the current overall representation of ethnic minorities in the UK film industry is just 7 per cent.

Recognising the obstacles facing emerging women filmmakers, and with financial backing from the Equality and Human Rights Commission, the Documentary Filmmakers Group (DFG) has partnered with BIHR on ISIS²: a groundbreaking documentary production and training initiative designed to produce great human rights films and give sixteen talented women directors the skills they need to get ahead in the industry.

Training in camera, sound and direction was accompanied by human rights and film master classes, including seminars on human rights in the UK with Jean Candler, BIHR's Head of Policy and Public Affairs. Participants pitched their own short documentary ideas on a current human rights issue to a panel which included representatives from BIHR. The three film ideas selected for production tackle the subjects of children's rights and smacking, disabled access to public transport,

Above:
Cinematographer Barbara Nicholls gives advice to ISIS participants Samantha Williams (on camera) and Lucy Purdon.

and the challenges facing parents with learning difficulties. The ISIS films were launched on 29 May at Amnesty International's Human Rights Action Centre.

Jean Candler said: "This valuable project not only gives women directors a chance to develop their careers in a male-dominated industry, but also highlights particular human rights issues in a poignant and compelling way. BIHR is delighted to have been part of this important project".

The ISIS films are:

DRIVING FORCE

(Director: Lucy Purdon,
Camera: Samantha Williams)

A mobility scooter, a travel ban and one man's fight for independence. Michael Clark takes on Newcastle's Metro system in a single handed protest to restore train access for mobility scooter users.

LICKS 'N BEATS

(Director: Patrice Williams,
Camera: Carol Sidney)

Do children have the right not to be smacked? An exploration of the use of physical discipline in UK Caribbean families.

MOTHER'S DAY

(Director: Ana Tovey,
Camera: Olivia Emes)

Marie has already lost custody of two sons. Her determination to show she can be a good mother to one-year-old Charlie, despite her learning difficulties, is put to its final test at the Family Court.

For more information about the project and to view these films visit: www.dfgdocs.com ■

¹ In 1985, a group of women artists founded the Guerrilla Girls. Between 1985 and 2000 close to 100 women, working collectively and anonymously, produced posters, billboards, public actions, books and other projects to make feminism funny and fashionable.

² In Ancient Egyptian religious beliefs Isis was the goddess of nurture, nature and beginnings.



OVER 200 DELEGATES MEET FOR CHANGING THE FACE OF HUMAN RIGHTS CONFERENCE

Over two hundred delegates came together in January for BIHR's annual conference which this year focused on 'Changing the Face of Human Rights,' and took place at the British Library, London. This unique event engaged a wide range of people and organisations in developing fresh ways to respond to the narrow and often negative public discourse which prevents people from understanding human rights and the Human Rights Act. From academics to actors, politicians to public officials, community representatives to journalists and lawyers to NGO workers: all shared their experiences and contributed to the debate on bringing human rights home to people in the UK.

Chaired by Anna Ford, the conference

Above: Jack Straw MP speaks to conference delegates

Right: Anna Ford, Chair Of BIHR's Annual Conference

featured a high-profile media panel and keynote speeches delivered by Professor Monica McWilliams, Chief Commissioner for Human Rights in Northern Ireland, Trevor Phillips OBE, Chair of the Equality and Human Rights Commission, and Justice Secretary Jack Straw MP. One delegate told us that "the highlight of the day was having the opportunity to hear from the media and politicians and hold them accountable for their actions."

Recognising that some individuals and organisations face financial or other barriers preventing them from attending these events, BIHR held a capacity-building day before the conference to support 35 people from across the country to participate. It was a 'human rights based approach' in action: by helping participants meet their costs, providing British Sign Language interpretation and offering advice on how to formulate powerful questions on the day, BIHR gave participants the opportunity and the confidence to make the most out of the conference.

The participants' presence on the main conference day was marked and audible. They raised many of the questions in the main plenary and workshops, bringing some vital issues and new perspectives to other participants, media representatives, ministers and Justice Secretary Jack Straw. Participants were drawn from a broad spectrum of organisations: from disability arts to asylum seekers; from blind black and ethnic minority groups to mental health charities; from gypsy traveller groups to the deaf community.

The feedback from delegates was overwhelmingly positive. They particularly



valued the diversity of experience represented amongst them. One delegate commented that the highlight of the conference was “listening to the audience – such diversity and emotional intelligence!”

BIHR warmly thanks the Equality and Human Rights Commission (EHRC) and the National Council for Voluntary Organisations for funding this capacity-building event, and the British Library for kindly providing the venue. The main day of the conference was co-sponsored by the EHRC and the Ministry of Justice.

The huge variety of perspectives brought together over the two days were collated in a short film of ‘vox pops’. Watch this film online at www.bihr.org.uk ■

POLICY SEMINAR SERIES EXPLORES KEY HUMAN RIGHTS ISSUES

May 2009 saw the arrival of BIHR’s new policy seminar series, kindly funded by the Nuffield Foundation. The seminars seek to generate fresh perspectives on human rights issues in Britain, and will involve a range of thinkers and influencers from across the political spectrum and various academic disciplines.

The first of the two May seminars explored economic, social and cultural rights – looking at other countries that have made these rights enforceable and the lessons the UK could learn from these experiences. The seminar drew from the insights of Janet Love, National Director of the Legal Resources Centre, South Africa’s largest public interest law clinic, and Ellie Palmer, Senior Lecturer in Public Law and

Human Rights at Essex University.

The second seminar focused on measuring human rights – in other words, how can we tell whether activities designed to ‘bring rights to life’ actually make a difference? Dr Todd Landmann and Edzia Carvalho (Essex University) explored the development of a human rights measurement framework, followed by Professor Paul Gready (York University) who examined how we can evaluate human rights activities in ways which capture the qualitative difference they make.

Short reports of the seminars will be made available on the BIHR website.

Two further seminars are scheduled for June/July. ■

JOIN BIHR’S POLICY NETWORK TO DISCUSS THE BILL OF RIGHTS AND OTHER ISSUES

There is a growing community of people interested in human rights policy and how it links with other areas – particularly equality, poverty and social justice. Yet there is currently no dedicated network to meet their needs. The BIHR Human Rights Policy Network aims to provide just this: a strategic and focused grouping of organisations able to provide evidence from their work about what difference human rights can make in a range of situations. The evidence will be used to feed into the development of policy positions to demonstrate a broad and fresh vision of human rights.

It will encourage more joined-up policy work between human rights organisations, as well as other organisations interested in human rights issues, increasing the effectiveness of the third sector to engage in public policy debates on the proposed Bill of Rights, the Human Rights Act and more.

The network aims to:

- Provide a space to promote dialogue, information sharing and collaboration between a range of organisations
- Disseminate current policy information

- Provide information, materials and resources to members
- Make evidence generated in the Network available to all members to inform their policy positions
- Where consensus exists, develop materials and policy positions on behalf of members on issues of common concern
- Use evidence generated in the Network to inform BIHR’s policy positions

Register your interest by emailing Sanchita Hosali, BIHR’s Policy Officer (shosali@bihr.org.uk). ■

HUMAN RIGHTS: THE BEGINNINGS OF A HUMAN RIGHTS CULTURE?



KATIE GHOSE,
Director of the
British Institute
of Human Rights

When the Human Rights Act (HRA) came into force in 2000, many welcomed the Government's view that it was about more than law, it was fundamentally about creating a new culture of respect for human rights in Britain. Nine years later, what kind of a culture is emerging? Media reports highlight spurious legal challenges and polls revealing a perception of the HRA as a tool of 'political correctness' and the 'nanny state'. But these same polls show that substantial public support exists for specific human rights – such as freedom of expression, protection from torture, or the right to a fair trial¹. They also reveal that most people feel they know very little about the Human Rights Act², and do not recall any attempt by the Government to explain it to them³.

In this unpredictable climate BIHR has been at the forefront of developing a human rights culture, with a unique focus on the provision of information, training and consultancy about human rights and freedoms. This work takes human rights out of what often seems to be the abstract legal realm and turns them into practical ideas, values and tools that make a real difference to people's lives. We have been bringing rights to life through our groundbreaking work with the health and education sectors, as well as empowering individuals and their advocates to claim their rights through our work with older people and those working on poverty⁴.

Our experience of working with a variety of people and organisations – in the voluntary

and public sectors – suggests that many negative attitudes quickly shift once accurate and accessible information is made available. Sadly, most people in the UK do not have access to basic human rights information, including people whose rights are most likely to have been denied. BIHR's innovative report *Changing Lives* – now in its second edition – documents 30 such cases, where a range of people have been denied their human rights until accurate information was provided to challenge and change practices. These include a learning disabled couple whose bedroom was being monitored with CCTV cameras and an older woman being strapped into her wheelchair against her wishes⁵.

The findings of the Equality and Human Rights Commission's Human Rights Inquiry are due to be published in June. The report will show how the Human Rights Act and its underpinning principles can make a real and positive difference for individuals and families. For the first time, we will have a national picture about how far human rights laws and principles have been taken up across government, Whitehall, and the public and voluntary sectors. The Inquiry report should reveal a richer picture of human rights 'in action' than some of the headline-grabbing media stories.

Just as evidence emerges however, of a positive human rights culture taking root, some politicians are toying dangerously with the fundamental ideas of human rights – as well as the form that legal protection should take (politicians from the three main parties tell

¹ Ipsos MORI Poll, 9 May – 5 June 2008.

² Ipsos MORI Poll, 9 May – 5 June 2008.

³ ComRes poll (commissioned by Liberty), November 28 – 30 2008,

⁴ See BIHR's website for details of this work (www.bih.org.uk)

⁵ See BIHR's report 'Changing Lives' (Second Edition) for details of these cases. Report available from BIHR's website.

BIHR what they think on page 12). We should all be alarmed by the possible weakening of our human rights protections, and vigilant about the need to safeguard the Human Rights Act which has already brought about real change for many. As Sir Geoffrey Bindman, BIHR's Chair says, "The Human Rights Act is a necessary force for good. Any threat to repeal it should be resisted and we will challenge those who argue for its repeal with evidence of the benefits it has brought to people in our society, and particularly for those in vulnerable situations".

But we must not confine conversations about the future of human rights to the political or legal domains. We need an inclusive debate which equips people with the facts, demonstrating how human rights bring tangible protections and benefits to everyday situations. All sections

of society should be empowered to take part, particularly people in vulnerable situations and on the margins of society whose voices are rarely heard when it comes to defending their rights from abuse.

At the end of the day, we all deserve knowledge of what's at stake, clarity on how rights work, and a guarantee that if placed in a vulnerable position – maltreated in a care home for example, bullied at school, threatened by a father or husband – we will be protected and get justice. Unless and until people know their rights and experience human rights as a solution to everyday problems it will not be obvious how much we have to lose and existing human rights protections will remain fragile to the political winds of change. Conversely, if more people are given the opportunity to use human rights in the 'here and now'

their sense of ownership will grow, providing a powerful challenge to any politician who threatens to water our rights down.

As the public dressing down of MPs over their expenses continues unabated, no one can accurately predict what next week's, let alone next year's politics will hold. In this fast-changing environment, the full implications of what the political parties say and do about human rights must be the subject of close scrutiny. But a conversation which only takes place in and around Westminster and Whitehall will be inadequate. As Afua Hirsch writes on page 13, we all benefit from human rights protections – even the politicians who threaten to weaken them. And spreading the word about how we all benefit will ultimately be the best safeguard against those who would do our human rights down. ■

tooks chambers



We don't need to beat our own drum, read what **Chambers & Partners 2009** and the **Legal 500 2008** have to say about us:

“civil liberties” “extremely hard-working”
 “consistently outstanding work” “major player”
 “very committed” “simply excellent counsel”

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WHAT DO OUR POLITICIANS SAY ABOUT... THE FUTURE OF THE HUMAN RIGHTS ACT?

BIHR asks Justice spokespeople from the three parties:

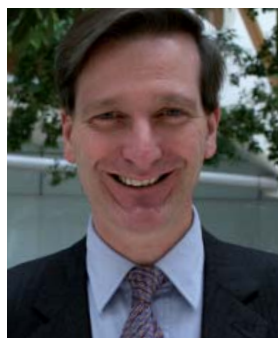
“Why do we need a Bill of Rights when we have the Human Rights Act which protects the rights and freedoms of people in the UK? Is a better solution to continue to embed this law and improve its reputation?”



**MICHAEL WILLS MP,
JUSTICE MINISTER**

Are there rights and responsibilities, over and above those in the Human Rights Act 1998, which are so fundamental to who we are that they should be entrenched as part of our constitutional fabric? There are

strong arguments in favour of a Bill of Rights and Responsibilities, but the Government's recently published Green Paper does not presuppose the outcome of a consultation that is taking place across the UK. Rather it highlights a fundamental question: what rights and freedoms should we enjoy and how should they be balanced by the responsibilities we owe each other. This isn't an abstract debate. It is about the practical politics of jobs and housing, of healthcare and education. The Government is clear that what it will not do is renege from the protections afforded by the 1998 Act. But it does believe the time is right to talk about how we might go further.



**DOMINIC GRIEVE
QC MP, SHADOW
JUSTICE SECRETARY
(CONSERVATIVES)**

The Human Rights Act has failed to protect our fundamental freedoms – whether from intrusive surveillance powers, attacks on

the jury system or repeated attempts to extend detention without charge. Most recently, it failed to protect innocent people from having their DNA indefinitely stored by the police – we had to wait

seven years for a decision from Strasbourg, which Ministers then largely ignored.

On the other hand, the Act has also promoted the 'rights inflation', failing to insulate the UK from judicial legislation from Strasbourg. This is at least one cause of the rising compensation culture that has undermined public confidence in the Act.

A Bill of Rights could remedy these defects – providing clearer protection for our fundamental freedoms, but restoring democratic accountability over the growth of novel rights. We need to recognise – and remedy – the flaws in the current system. That is the best way to restore public trust.

**DAVID HOWARTH MP,
SHADOW JUSTICE MINISTER
(LIBERAL DEMOCRATS)**



The demand for a Bill of Rights has long been a core part of calls for constitutional reform in Britain, which have in turn been fundamental to Liberal Democrat politics. But current proposals for a 'Bill of Rights and Responsibilities', far from being part of such a comprehensive constitutional settlement, seem calculated to undermine the legal protection for rights we already have. Indeed, they sometimes seem little more than a convenient political vehicle enabling the two other parties to join in populist attacks on the Human Rights Act while simultaneously professing their commitment to civil liberties.

Human rights provide the absolute minimum protection against abuse of power that all legitimate states owe to all human beings. They cannot be made contingent on performing 'responsibilities' and are not the same as the rights of citizens of a specific state.

For too long, populist misconceptions, such as *The Sun's* calling the HRA 'the act that frees murderers to kill again', have been allowed to go unchallenged. Those who count themselves as defenders of human rights should direct their efforts towards defending the Act, not undermining it. ■

I was asked recently by a very senior judge whether I would like to stop the BNP from expressing their views. He seemed relieved when I replied that everyone benefits from the principle of allowing extreme opinions to be voiced, including those who, like me, are less than enamoured with their views.

But as well as its role in democracy, the interesting thing about freedom of speech is that it is a right which, like all others, is currently under attack by the same groups which happen to be its primary beneficiaries.

Sections of the press have been having a field day human rights-bashing for years now, despite the fact that they waste no time invoking their own rights should the need arise.

But politicians are also major consumers of human rights. Not only freedom of expression, which has been relied on to defend controversial party political broadcasts in the past, but also privacy – the ill-fated argument made recently in a vain attempt to stop details of MP's expenses being made public.

Which makes the scale of the current political threat to the Human Rights Act – the single piece of legislation which has done more than any other to entrench a culture of protecting rights in the UK – all the more astonishing.

It's not only Labour, who were once genuinely committed to the rights brought in under the act, but which they are

AFUA HIRSCH, Legal Affairs Correspondent, *The Guardian*

now seeking to dress up with 'symbolic' and unnecessary declarations about responsibility.

The Tories also give much cause for concern. They are content to free-ride on the politically fashionable concern for intrusive surveillance and databases, but ask them about the vulnerable immigrant or the less fashionable prisoner and their response is to condemn "rights inflation" – which presumably means extending rights to people the Tories don't like.

Rights are there to protect everyone. That includes the soldiers who recently secured protection for their rights in the Iraqi desert as much as in the barracks at home. You can't help but wonder how many lives would have been saved if Generals sending young men onto the battlefields of the Somme had devised their strategy with those soldiers' rights in mind too.

No one would argue for a return to the callous decision-making of the past. But it's not a coincidence that the current human rights framework grew out of the aftermath of WW2. The natural response to atrocity is to try to protect people in the future and avoid repeats of the past. It would be tragic if the progress of the last fifty years were undone for political point scoring and appeasing the misinformed. ■





ROBERT BLACKBURN, Professor of Constitutional Law, King's College London¹ and author of 'Towards a Constitutional Bill of Rights for the United Kingdom' explains his thoughts on a genuine constitutional Bill of Rights.

What is a Bill of Rights?

A Bill of Rights, as properly understood, is a constitutional document that sets out the fundamental rights and freedoms of every citizen in the country. It would normally form part of the written constitution of a state, and – as with the rest of the constitution – have some special status and priority in law. If such rights and freedoms are to be guaranteed in law, it is important they have priority over the administrative processes and powers of public authorities which are institutionally driven primarily by factors of managerial convenience and cost. A Bill of Rights can be a stand-alone document, however, so long as it has this special status in national law.

The May 2009 crisis of Parliament might have proved the catalyst for an all-party convention to consider Gordon Brown's long term aspiration of a written Constitution of which a Bill of Rights would form part. But with a general election on the horizon the political parties are likely to want to emphasise their differences rather than work together.

What does a Bill of Rights add that makes it different to the Human Rights Act?

I have been a long-standing supporter of a Bill of Rights. I believe core British civil liberties should be written into a Bill of Rights, complementing the European Convention on Human Rights (ECHR) freedoms which are contained in the Human Rights Act, with greater elaboration where needed. Further rights and freedoms can be added which are emerging in response to contemporary developments, such as dangers posed by potential misuse of new technologies and environmental degradation.

A British Bill of Rights cannot be a Bill of Rights and Responsibilities. There are already responsibilities and obligations inherent in the concept of human rights.

For example in the wording of the ECHR it is clear that many of the rights can be balanced to take into account the public interest. These public interest factors are the other side of the same coin that stipulates our fundamental human rights and freedoms. The key question here is on what side of the coin do you wish to place the primary emphasis? In a free society the emphasis must be on the side of the rights and freedoms of the individual.

How does the current Bill of Rights (and Responsibilities) debate fit with the ongoing constitutional reform agenda?

In my view the new Supreme Court should be given powers to override laws which violate the freedoms protected by a Bill of Rights. This could be similar to the position in Canada where courts have a general power to override new laws if they do not comply with the Charter of Rights and Freedoms. However, the Canadian Parliament retains the ability to restrict this power of the courts by inserting a clause into a new law which prevents the courts from overriding it. Since the Human Rights Act came into force in 2000, the judiciary has already been able to judicially review Acts of Parliament on human rights grounds and make declarations of incompatibility under the Act². So having the powers to override laws would not be a wholly novel or radical new process for them. It is a major failing in the recent proposals of both the Government and the Joint Committee on Human Rights that they oppose a Bill of Rights being given any special status in law. This is essential if it is to be effective – and if it is to be a genuine constitutional Bill of Rights at all. ■

¹ Professor Robert Blackburn is a member of BIHR's Advisory Board, which provides expertise and support to BIHR trustees and staff. For more information visit our website: www.bih.org.uk/about-us/advisory_board

² Under the HRA, the judiciary can only make a non-legal statement that a statutory provision is in violation of the human rights in the ECHR: the victim has no legal redress from the court and the offending statutory provision remains in force. The purpose and effect of the declaration is to indicate to the government that it should change the law or face defending the case before the European Court of Human Rights.

OVER 500 PEOPLE ATTEND BIHR LECTURE SERIES

As explored in earlier pages, discussions in the political arena over a British Bill of Rights and Responsibilities throw up many questions about exactly how our fundamental freedoms and rights would be protected under the leadership of the different political parties. BIHR was delighted to host lectures on this subject given by spokespersons from the three main political parties: Nick Herbert MP, Human Rights Minister Michael Wills MP, and Chris Huhne MP, between November 2008 and May 2009. Full transcripts of these lectures and BIHR's statements in response can be found on BIHR's website (www.bihr.org.uk).

This is the 23rd year in which BIHR has opened up debates about human rights to include the general public, giving them the opportunity to hear and question high profile speakers. We would not be able to run these events without the kind support of our sponsors, One Crown Office Row and Irwin Mitchell LLP.

Keep an eye on BIHR's website for details of upcoming lectures in the autumn. ■

Human Rights Minister Michael Wills MP takes questions from the floor following his lecture to BIHR



BIHR PATRON CHERIE BOOTH SPEAKS AT ANNUAL RECEPTION

BIHR's annual reception was held on 2 December 2008, and marked the 10th anniversary of the Universal Declaration of Human Rights. The event was sponsored by Clifford Chance and took place on the 30th floor of their stunning Canary Wharf offices.

BIHR friends, supporters and partners enjoyed the panoramic views across the City and a lively and impassioned speech from BIHR patron Cherie Booth QC.

Another highlight of the evening involved some of the young people BIHR has worked with from The City of London Academy (Southwark). They performed two poems about human rights – they chose Benjamin Zephaniah's 'The British (serves 60 million)', and a poem they wrote themselves entitled 'Human Rights at 60'.

The annual reception is an opportunity for BIHR supporters and colleagues to network, learn about BIHR's work, and celebrate the year's achievements. ■

Cherie Booth QC talks to pupils from City of London Academy at BIHR's Annual Reception



STAFF NEWS

We are delighted to welcome back our Director, Katie Ghose who returned from maternity leave in May. Hannah Clayton, our Training and Development Manager, is now on maternity leave until December 2009.

THANK YOU

BIHR would like to thank all of our funders and individual donors, and King's College London for providing our office space.

We would also like to warmly thank all our volunteers and interns: Gary Anello, Edd Capewell, Judith Cravitz, Pia Dawson, Bridget Higginson, Amanda Keeling, Fadzai Nyamande, Mary Scott, and Mike Threlfall.

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