

Rights Removal Bill*: Key Concerns



Adding a Right to Trial by Jury

*We think this is a more suitable name for the Government's new "bill of rights" Bill.

Article 6 of our Human Rights Act protects our right to a fair trial, across the UK. Jury trials are already an essential part of this. The right to a fair trial means that if we're charged with a criminal offence, or if a public body is making decisions that impact our rights, this has to be fair. When this doesn't happen, individuals can challenge unfair trials and processes.



The right to a jury trial is not an additional right. The Government's Rights Removal Bill does not provide us with any new human rights protections.

THE GOVERNMENT SAID...

— “

The Bill of Rights will...Recognise that trial by jury is a fundamental component of fair trials in the UK.

” —

THE JCHR SAID....

— “

This appears to be a symbolic gesture to distinguish the Bill of Rights from the Convention and we remain unsure about the legal significance of the right.

” —

BIHR SAYS...

Our Human Rights Act is carefully crafted to take account of the different ways just trials work across the UK; ultimately requiring all trials are fair. This is an unevenced and unnecessary solution to a problem that doesn't exist.

Under Clause 9 of the Rights Removal Bill, the Government says that the right to a fair trial under Article 6 will be secured through jury trials. This right would be a qualified right, which means it can be limited if certain exceptions are met. This right would be subject to the framework set by Parliament and the Scottish and Northern Ireland Legislatures. This means there will be little change as to how the right to a fair trial (and our access to jury trials) already works across the UK under the Human Rights Act.



[Find out more about Article 6, the Right to a Fair Trial](#)

The Government claims it is providing us with a new right when in reality there will be no significant change. The Joint Committee on Human Rights describes this clause as a “symbolic gesture” and expresses doubts over its “legal significance”. This is nothing more than a distraction from the fact that the Government's Bill removes our existing human rights protections rather than adding to them.



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Adding a Right to Trial by Jury

The Government has not provided any strong evidence for its proposals because it is not creating any additional protections to those we already have under our Human Rights Act. When the Government set up the Independent Human Rights Act Review (IHRAR) they did not ask them to look at jury trials in their report. In response to the Government's public consultation, 25% of the respondents said that the right to jury trial is already recognised and no change is needed.

"The Scottish Government is clear that Scots law already guarantees the right to a fair trial. It currently does so by means of the HRA, the Scotland Act 1998 and other domestic statutory provision and the common law."

Human Rights Act reform consultation: Scottish Government response

We already have a right to a jury trial in England and Wales and the Government are not prepared to change the law relating to jury trials in Scotland as this is a devolved matter.

The Human Rights Act respects different legal systems across the UK, including differing attitudes to jury trials. This is another instance of the Government suggesting that the new Bill gives us more rights, when in reality there is no change.

Our Human Rights Act already provides us with a right to a fair trial under Article 6 ensuring consistent protections that take account of different legal systems in the UK.

In its Impact Assessment, the Government state that the "legislative recognition of the trial by jury is not a change to the law as it stands" and therefore it did not analyse the impacts of this proposal. It is clear, that the suggestion of a right to a jury trial does not lead to new or increased rights for the public. It simply serves as way to distract from the Government's erosion of our existing human rights protections.

Essential elements of the right to a fair trial include ensuring that a trial takes place within a reasonable time frame and that legal representation is provided when needed. Successive governments have demonstrated that they are not interested in improving the right to a fair trial within the criminal justice system through cuts to legal aid and a massive backlog of cases, with average delays for the completion of a case reaching 708 days in January 2022. This suggests that the Government is not actually interested in strengthening our right to a fair trial, but rather just want to appear as though they are enhancing our rights to get a new human rights law through which takes power from people and gives it to Parliament.

This change will have little practical impact on the criminal justice system. What it does do is reinforce the Government's lack of consideration for devolved nations and creates uncertainty.

Rather than creating a Right Removal Bill with empty promises of increasing rights, we should instead focus on protecting the Human Rights Act we already have.