

Bill of Rights Bill Second Reading

Stand firm on our Human Rights Act and oppose the Rights Removal Bill



The British Institute of Human Rights
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We urge you to stand firm on our Human Rights Act and opposing the Bill of Rights Bill (better known as the Rights Removal Bill) at Second Reading

This document sets out [The British Institute of Human Rights](#)' key concerns about the Bill, our evidence for those concerns and what we urge you as an MP who is committed to keeping our human rights protections to raise at Second Reading and beyond.

We urge you to raise that this Bill is unevidenced and unworkable:

[Further detailed briefings setting out our concerns with the Bill are available here.](#)

[Read our accompanying real life stories document here.](#)

Despite the significant constitutional changes the Bill introduces, the Government has consistently sought to exclude voices, ignore evidence and avoid scrutiny.

We call on you to challenge the Government on the legitimacy of the Bill by specifically raising that:

- This Bill which scraps our HRA is not even comparable to the Government's 2019 [manifesto commitment](#) which was to "update" (not replace) our HRA.
- The Bill completely ignores the detailed recommendations of the Government's own Independent Human Rights Act Review, as well as the [Joint Committee on Human Rights' grave concerns](#).
- The [Government's public consultation was inaccessible and excluded those most likely to be impacted, such as people with learning disabilities](#).
- This Bill disregards most of the [12,873 responses](#) the Government received to its consultation and introduces measures never even consulted upon.
- Crucially, we urge you to raise that the Government has consistently sought to avoid any proper Parliamentary scrutiny of the Bill, including refusing pre-legislative scrutiny and avoiding meeting with the JCHR.

Find further detail on our concerns around legitimacy in our, ["Nothing about us, without us" briefing here.](#)



We ask you to amplify BIHR's overarching concerns with replacing our Human Rights Act with the Rights Removal Bill:

BIHR says: "Every day in our work with people accessing services, community and advocacy groups and staff working in public bodies, we see how our Human Rights Act (HRA) can enable positive practical change, often in those small places close to home. Without it, and with the Rights Removal Bill in its place, we would see the reduction of everyday human rights protections, taking the UK backwards, jeopardising the work of public bodies, and putting people at risk of serious harm."

We urge you to raise that this Bill undermines devolution and the Good Friday Agreement:

This Bill fails to account for its impact on human rights protections in Northern Ireland, Scotland and Wales. This not only risks legal chaos but is dangerous and people will bear the brunt.

We call on you to challenge the Government on its cavalier attitude to devolved nations by specifically raising that:


- The Bill disregards the different devolved court systems, all of which have different structures, powers and laws which do not align with the Bill.
- Progressing with the Bill ignores devolved voices; both the Scottish and Welsh Governments issued strongly worded statements raising concerns with the proposals. The Scottish Government have since been clear again on their views against the Bill in their response to the JCHR's August 2022 Call for Evidence.
- Crucially, in Northern Ireland the Bill risks jeopardising the Good Friday Agreement and the political and policing structures which ensure peace and stability.

We urge you to raise that this Bill reduces Government accountability to Parliament, people and the courts – hurting the UK's democracy:

The Bill is a power grab: insulating the Government from the courts and Parliament.

We call on you to challenge the Government's power grab by specifically raising that:

- The Bill requires courts to consider that anything done under any law (whether primary or secondary legislation) is a justified restriction on our human rights, without considering the people impacted (Clause 7).
- The Bill introduces a new permission stage (Clause 15) which will shut individuals whose human rights have been breached out of the courts, disproportionality impacting those who already experience barriers to justice.
- The Bill reduces Parliament's role in scrutinising human rights, including by removing the requirement in s.19 HRA for Ministers to make a statement on whether a Bill is compatible with human rights.



You can read our "Need to Know" on proportionality here.

You can read our "Need to Know" on the new permission stage and the impact here.

You can read our "Need to Know" on removing s.19 statements and the impact here.

We urge you to raise that this Bill demolishes fundamental human rights frameworks which hurts public bodies and their staff, and jeopardises their ability to help the people they support:

The staff we work with use positive obligations every day to challenge the public bodies they work within to rethink decisions made based on funding or policy which they know, working on the ground, would put people at risk of harm. The Rights Removal Bill demolishes our fundamental human rights framework used by public officials, and people will bear the brunt.

We call on you to challenge the Government's demolition of our fundamental human rights frameworks by specifically raising that:

- The Bill destroys the positive obligations on public bodies to protect us (Clause 5). It prevents UK courts from applying any 'new' positive obligations and leaves the decision to take steps to protect us down to operational priorities and resource allocation. The Bill removes the ability for staff to proactively take steps to protect the people they support. For example, how [Laura](#), a doctor, used the HRA to raise concerns about blanket restrictive practices in a nursing home.
- The Bill removes the obligation at s.3 HRA for laws to be interpreted and applied in a way that respects our human rights, as far as possible. This will remove the requirement for the public bodies making decisions about our lives every day to apply other laws and policies, in a rights-respecting way.



We ask you to amplify the untold stories of positive obligations:

Positive obligations protect everyone, often when we are at our most vulnerable. Whether that be the ambulance service dispatching without unreasonable delay or the police properly investigating allegations of rape and sexual assault.

Every time a child is protected from harm by a social worker or a teacher; a woman fleeing domestic violence is offered secure accommodation; and a nurse challenges a DNAR order placed without consultation. When rights are properly protected, we don't hear about them – it just happens.

Further, new situations also arise all the time. For instance, during the Covid-19 pandemic we saw the importance of positive obligations to secure PPE for health and care staff.

The new Bill destroys this framework. It risks more stories like Bryn's occurring: a man who was denied lifesaving treatment because of discriminatory attitudes about learning disability and quality of life.



We ask you to amplify the work of public bodies to protect rights as our UK Government seeks to dismantle them:

For instance, the [St Aubyn Centre](#), a young person's mental health centre, used human rights to introduce an individualised approach to access to mobile phones and internet.

Or [this NHS Trust](#) who used a human rights approach to co-develop with the children concerned a specialised visiting area for families. [Read our guide for public bodies which has lots more examples here.](#) The Bill jeopardises this.



We ask you to amplify Kirsten's story:


The Rights Removal Bill will mean that people like Kirsten, who used our HRA to challenge staff's use of mental health law when her autistic son was restrained, secluded and shackled in hospital, will have much less power.

We urge you to raise that this Bill is discriminatory and undermines the universality of human rights:

The Bill flagrantly identifies categories of people considered to be less deserving of human rights. The Bill makes human rights discretionary – leaving their protection to the whims of those in power.

We call on you to challenge the Government's two-tier system of rights by specifically raising that:

- The Bill effectively extinguishes the right to private and family life of migrants and their families.
- The Bill splits people into those who are 'deserving' of remedies for human rights breaches, and those who are not. Under the Bill a victim's past and unrelated conduct could prevent them accessing a remedy and trying to rebuild their lives, as Steven did after he was removed from his home and forced to live in care miles away from his father.
- The Bill's provision on remedies risk dangerous and unintended consequences. For example, an autistic person who is regularly restrained in hospital in an inhuman manner may well fight against staff who are pinning them down.



You can read our [briefing on the changes to private and family life here](#). You can read our [Need to Know on remedies here](#).

We call on you to emphasize that the Bill will have a significant and disproportionate impact on those already minoritised and marginalised.

- It will inevitably impact most those in vulnerable situations that have to rely on their human rights to be treated with equal dignity and respect.



We ask you to amplify the voices of Yolande, Tim and Sylvia.

Yolande raised her and her children's right to respect for family life when they were fleeing domestic violence, after social services decided to place the children in foster care.

Tim and Sylvia, a couple with learning disabilities, used human rights to challenge social services' decision to install CCTV in their bedroom at night. It is difficult to see how their voices would ever be heard under the Bill.

We urge you to raise that this Bill prevents effective enforcement of human rights in the UK and breaches the UK's international obligations:

The Bill guts the protection that the ECHR provides in the UK.

We call on you to challenge the Government's move away from international obligations by raising that:

- The Bill actively encourages, and mandates, UK courts to provide less protection to our human rights than what is required under the ECHR, as well as making a mockery of any form of access to accountability and remedy in the UK for human rights breaches.
- The Bill, whilst seeking to diverge the UK from the ECHR, conversely prohibits UK courts from ever developing human rights protections beyond the ECHR.
- The Bill, ultimately, seeks to 'freeze' our human rights protection in time, and, if anything, take them back to the 1950s when the ECHR came about.
- The Bill will inevitably lead to an increase in people having to take a case to the European Court of Human Rights, something recognized by the Government, [1] and will almost certainly result in more decisions finding against the UK.
- The Bill takes us back to a two-tier system with human rights and justice only for those who can afford it. It is difficult, expensive, and time consuming to take such a case – and no court decision can rectify the drastic consequences a breach of someone's human rights can have.
- The Bill's attempts to ignore the ECHR and ECtHR risks giving confidence to those countries who have a growing reputation for not respecting human rights.

We urge you to raise that this Bill in fact weakens all human rights protections, including freedom of expression and jury trials:

The HRA is a powerful tool in protecting freedom of expression. In fact, it is through the HRA and the ECHR that freedom of expression has been enhanced, such as through protecting journalists' sources

We call on you to challenge the Bill's hypocrisy and pretence of increasing the protection of freedom of expression, specifically by raising that:

- The Bill appears to exclude certain types of expression from its protection, particularly 'expressive conduct' such as direct action and protest.
- The Bill carves out situations where no 'additional protection' is to be provided for freedom of speech, such as those concerned with criminal offences or immigration.
- It is clear that expression when it is not a popular topic or form, such as protest, is not the type of expression that the Government wants to protect. However, it is in those areas where expression is often most controversial that it is most needed.

[1] In its Impact Assessment, the Government, for instance, recognizes that the changes to positive obligations "is likely to result in an increase in cases that are brought to the Strasbourg Court." Draft Bill of Rights, Impact Assessment, 19/06/22, page 15.

The HRA respects different legal systems across the UK, ultimately requiring that all trials are fair.

We call on you to challenge the Bill's pretence of protecting jury trials by raising that:

- The Bill's confused clause on jury trials does not provide any actual increased protection – which the Government has recognised in its own Impact Assessment.[2]
- The Bill fails to acknowledge the different approaches to jury trials across the devolved nations.
- The Bill, will, at best, create uncertainty, and, at worst, risks undermining access to jury trials.

Ultimately the Bill is designed to reduce our human rights protections, take us backwards, and insulate the Government from accountability. It is dangerous and it is people who will suffer.

We urge you to stand firm in protecting our HRA and resisting the Bill.

[2] In its Impact Assessment, the Government states that the "legislative recognition of the trial by jury is not a change to the law as it stands" [Draft Bill of Rights, Impact Assessment, 19/06/22, page 15.](#)