Rights Removal Bill*: Key Concerns

Removing Section 19 Statements of Compatability

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

Section 19 of our Human Rights Act means that when the UK Government suggests a new law, they must make a statement saying either that it considers that the law is compatible with the rights in the Human Rights Act, or that it does not (a Section 19 statement). This means that the Government must think about how any new law will impact our human rights. In practice, this operates as a "human rights assessment".

The Government's Rights Removal Bill does not include the obligation to make statements of human rights compatibility under Section 19. Removing this requirement reduces accountability and weakens the role of human rights in the law-making process.

THE PUBLIC SAID...

In the public consultation, **3,702 respondents mentioned that they did not believe there was a case for change. Less than 7% of people who responded to the question on removing Section 19 agreed with the Government.**

THE IHRAR SAID...

> "Section 19 plays an important role both in helping to ensure that Government and Parliament consider the application of [the rights in the HRA]...to new legislation[...] it has had a major, transformational and beneficial effect on the practice of Government and Parliament in taking account of human rights issues when preparing and passing legislation."

THE GOVERNMENT SAID...

> "This change will allow and encourage innovative and creative policy making which better achieves Government aims"

BIHR SAYS ...

An important part of human rights mechanisms is that they are integrated into the state's decision-making processes. It is not enough to think about human rights only when those laws or policies are ready to be implemented. Human rights considerations should happen at every stage of decision-making which affects our lives.

The Section 19 statement is a key form of accountability that protects our rights in a healthy democracy. It ensures that the Government is transparent about any potential human rights concerns with its proposed laws. Section 19 statements help Parliament to review the law and, when the Government is unable to say that the law is compatible with human rights, it can help draw attention to any human rights concerns. This helps to ensure that a new law is properly scrutinised by Parliament and is an important transparency tool.

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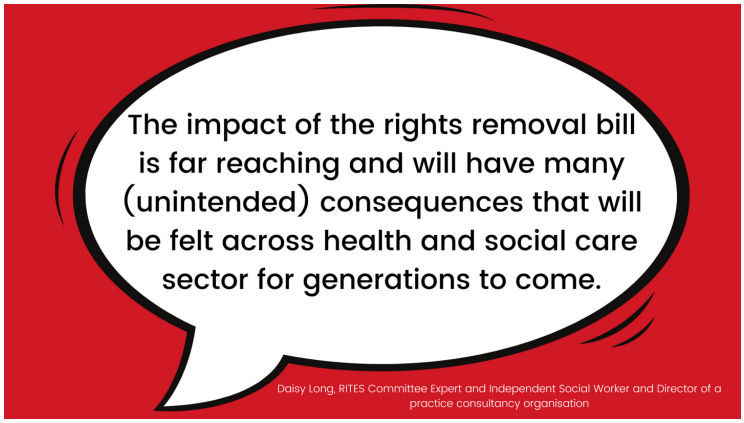
Section 19 does not discourage "innovative policy making". It ensures that human rights are considered. This is a positive: human rights should not be a victim of innovation, and, in any event, "innovative" policies can, and should, be human rights compliant. The Government should want to respect our human rights, resulting in improved policy-making and reducing the likelihood of laws being challenged in courts. The UK also has obligations under international law to comply with the human rights in the ECHR. It seems clear to us that "innovative and creative" are no more than euphemisms for unlawful and incompatible with human rights.

Section 19 is advisory only. This means that the Government can always say that a proposed law is not compatible with human rights and Parliament could still pass this law. This is because Parliament has ultimate authority; the Human Rights Act does not change that.

Encouraging law makers to properly consider human rights implications before legislation is introduced is a key way our Human Rights Act improves respect for all of our human rights. It is part of the mechanism to ensure that all other laws work in a way that reflect these rights.

Building a culture of respect for human rights means that duty bearers are thinking about human rights in whatever they do. This prevents breaches of human rights and means courts are a last resort. The removal of Section 19 statements will mean that how laws impact our human rights will not be properly considered until people are already victims of human rights breaches. This takes us backwards in human rights protections.



By removing this obligation, the UK Government is telling law-makers that human rights can be a last-minute consideration. In contrast, the Government's own guide to making legislation states that considering the human rights impact "**is an integral part of the policy-making process, not a last-minute compliance exercise**".

Removing Section 19 statements demonstrates the attitude this Government has towards human rights: that they are a burden rather than a tool for positive decision-making. This is the opposite of what we hear from the staff in public bodies who use the Human Rights Act as a framework to make rights-respecting policies and decisions to keep people safe.

The removal of Section 19 is an attempt to remedy a problem which does not exist, in order to prevent scrutiny. By removing Section 19 statements, it makes human rights an afterthought in the law-making process. The human rights implications of new laws should be considered from the very beginning; this is an essential part of building a human rights culture and ensuring that people are protected. The Rights Removal Bill will decrease scrutiny and therefore weaken our human rights protections.