

The Human Rights Act: Exploding the Myths

The Human Rights Act has come under attack from journalists and politicians. This document explodes some of the myths.

1. *Human rights law is simply for terrorists and criminals. What about my rights?*

The Human Rights Act protects everyone's human rights, including yours. Anybody can fall foul of incompetent, careless and insensitive decision-making by public authorities, be wrongly accused of a crime or have their privacy breached by the prying eyes of the state. Hopefully this won't happen to you but, if it did, you might find you need to rely on the Human Rights Act to help you.

2. *Human rights law is a charter for criminals and terrorists. Why shouldn't people who break our laws be punished?*

There is nothing in the Human Rights Act that prevents convicted criminals and terrorists from being locked up. In fact, the Human Rights Act requires serious offences like murder, terrorism and rape to be investigated by the police, who can be held responsible for serious failures on their part. It also requires people that commit serious, violent offences to be prosecuted.

3. *But why should criminals have the same rights as law-abiding citizens?*

Human rights laws do not give criminals the right to enjoy the same freedoms as the rest of us. It specifically says that people convicted of crimes can, and in some cases must, be deprived of their liberty and that they should not be released early if they present a serious danger to others. It also says that people, with no right to reside in the UK, can be detained to prevent them entering the country and while steps are being taken to deport them.

4. *The Human Rights Act has made us all less safe. It needs amending so that the courts are required to balance our rights to safety and security against the rights of criminals and terrorists.*

Human rights law actually makes us safer and requires the state to protect us against serious crime. Most of the rights in the Act are not absolute. For example, the right to privacy and freedom of expression can be restricted to protect public safety or national security. The only absolute right is the right against torture or inhuman treatment. This recognises the fact that in a democratic, civilised society, subjecting human beings to such inhuman treatment can never be justified.

5. *Why shouldn't we be able to deport foreigners who pose a threat to our national security?*

In the vast majority of cases human rights law does not stop people who threaten our national security from being deported. It does stop us deporting people to countries where they will face near-certain torture or inhuman treatment. But torture is a special case, an abomination that can

never be justified in civilised societies. It is not therefore surprising that, even before the Human Rights Act, the law made it clear that countries that respect human rights should not deport people to face torture elsewhere in the world. Deporting terrorists doesn't make national security sense either. Surely, rather than exporting the risk from terrorism, we would be safer if we prosecuted them in the UK and, if they are found guilty, put them behind bars.

6. *Human rights law has meant that murderers and rapists have been let back onto the streets rather than being locked up. Wasn't this why Anthony Rice was set free so that he could go out and murder a 40-year-old mother?*

The report by Her Majesty's Inspectorate on Probation shows that Rice was set free due to mistakes, misjudgements and miscommunication. There is no human right for convicted criminals who pose a threat to public safety to be released back into society before the end of their sentence. In fact, putting the public at risk by releasing someone in these circumstances may well breach human rights law, which requires the Government to take reasonable steps to protect us against serious crimes like murder and rape. The fact that the probation service seems not to have understood the law doesn't mean the law needs changing; it means the probation service needs training.

7. *What about the rights of victims of crime? Human rights law puts the interests of killers, rapists and paedophiles above the rights of victims.*

Human rights requires criminal laws to be put in place to dissuade people from committing serious crimes like murder and rape, to punish offenders and to ensure justice for victims and their families. It also requires the state to take practical steps to protect people against these crimes. Human rights law has actually played an important part in protecting the rights of victims. For example, it has given bereaved relatives the right to an independent public investigation into the circumstances surrounding the death of their loved ones and the right to be involved in the investigation.

8. *Human rights laws might have been needed 50 years ago, after the horrors of the Second World War but they need changing now to meet the requirements of the modern world.*

Human rights are just as important today as they were 50 years ago. The people who experienced the horrors of the Second World War realised that protecting everyone's human rights was the best way of making sure that such atrocities never happen again. They have been proved right. Thankfully, countries that have remained committed to protecting human rights have not seen repeats of the horrors of the Second World War. Sadly, war and civil unrest is still rife in countries where human rights violations remain a tragic reality. We cannot call for end to gross rights abuses elsewhere in the world unless we show a commitment to protecting rights at home as well.

9. *People now have a "human right" to anything. Those who wrote the human rights laws in the 1940s and 1950s never dreamt that they would be used in the way they are now.*

The Human Rights Act does not protect an endless catalogue of rights. Indeed, it only protects 15 well-established fundamental rights and freedoms, like the right to life and the right to free expression. Many other democracies protect a far broader range of rights. Our human rights laws do not, for example, create a right to a home, a right to live in the UK or a right to receive benefits.

10. *The Human rights Act has cost the British tax payer millions of pounds and has been a goldmine for lawyers.*

One of the main reasons for the Act was the cost and delay caused by the fact that people could only enforce their human rights by taking cases to a court in Strasbourg. People's rights can now be protected by UK courts, which is far more efficient and cost-effective. But the Human Rights Act is not just about lawyers and courts. It has helped thousands of people protect their human rights without the need for costly court cases. Local authorities have reviewed their policies to make sure they treat the vulnerable with dignity and respect and users of a wide range of public services have used the Act as a tool to argue for better and fairer services.

11. *The Human Rights Act has been imposed on us by Europe.*

First, no one forced the Human Rights Act upon us, the British public voted for it. Before the 1997 general election the Labour Party promised that, if we voted for them, they would give people the power to enforce their human rights in UK courts. When they won by a landslide majority they delivered this promise by passing the Human Rights Act. Secondly, the Act is based on the European Convention on Human Rights which has nothing to do with Brussels or the EU. Finally, the British played a major role in drawing up the Convention which includes many rights and freedoms that we have enjoyed for centuries in this country.

12. *The Human Rights Act has taken power away from the people we elected and given it to the judges.*

Our elected politicians passed the Human Rights Act; it wasn't invented by the judges. Neither did the Act transfer huge law-making powers to the courts. Even if a judge thinks that a law made by Parliament breaches our human rights they cannot overturn it. Our MPs still have the final say. What the Act did was to give the courts the tools to protect our human rights against abuse by the Government and powerful public bodies.