

'We can depend upon our elected representatives to protect our human rights, we do not need the Human Rights Act of 1998.'
Discuss the relevance, or otherwise, of articles of the HRA.

The Human Rights Act of 1998 is essential to protect individuals from abuses by the state. Without such legislation, individuals would only be able to rely on their representatives who are representatives of the state and therefore are not partial enough for it to be safe to have such trust in them. MP's in the UK are subject to a strong whip system within parliament and so are known to toe the party line. An MP's party is where his loyalty lies therefore; we can't depend on our representatives to protect our human rights. This essay intends to assess the worth of the Human Rights Act of 1998.

History of the Human Rights Act

The Human Rights Act was passed in 1998 to domesticate the European Convention of Human Rights of which the United Kingdom was a signatory from the 1950's. From 1965 British citizens could rely on the European Convention of Human Rights which was set up after the Second World War with an aim to protect European citizens from abuses by the state. Whilst British citizens had access to the rights laid down under the Convention, it was a long process waiting for a court decision from Strasbourg to gain redress. Many people would give up, or simply not bother.

In order to make the rights laid down in the Convention more accessible to British citizens, the Labour government of the early 1990's accepted a case for incorporation of the Convention into domestic law. By 1997, New Labour had produced a White Paper portraying a declaration of Human Rights which would be enriched into British Law. The Human Rights Act of 1998 was the result of this White Paper and it came into effect in 2000.

The Purpose of the Human Rights Act

The aim of the Human Rights Act is to give further effect in UK law to the rights contained in the European Convention on Human Rights. The Act makes available in

UK courts a remedy for breach of a Convention right, without the need to go to the European Court of Human Rights in Strasbourg, therefore making redress more available to citizens.

If any public body acts in a way that is deemed incompatible with the Convention on Human Rights, the Human Rights Act makes it unlawful. The only exception to this rule is where the wording of a relevant Act of Parliament means they have no other choice. The Act also requires judges to interpret legislation in line with the Convention and decisions of the Strasbourg court. The Act does not restrict citizens from bringing a case to the Strasbourg court, this route is available as a last resort. This of course makes the government more accountable for their actions and safeguards the rights of citizens.

The Impact of the Human Rights Act

The Human Rights Act has had a huge effect upon the culture of Human Rights in Britain. This in itself illustrates just how fundamental it is to have the Act. This culture has come around as a result of the rule that decisions of Parliament, any local authority or public body must not infringe the rights guaranteed under the Act. It is down to the courts to deal with cases of legislation which conflicts with the Human Rights Act as they come before them.

The Human Rights Act has been responsible for a number of landmark cases which have had a huge impact upon British citizens. For example, in the case of Connors v UK (2004), travellers who lived on local authority owned land had had their licenses revoked. It was held that their rights guaranteed under Article 14 (protection from discrimination) and Article 8 (right to respect for the home) of the Human Rights Act had been infringed. The applicants were compensated as a result. This case is pure justification of the importance of the Act. Without it, would Connors have been able to rely on anything to gain redress.

Representatives v Human Rights Act

Based on Burkean representation, MP's should think for themselves and use their own judgment because the mass of the people may not know their own best

interests.¹ This could mean that representatives act in their own interests as opposed to the interests of the mass of people. In relation to Human Rights, people would be putting a lot of trust into someone who is a representative of the state and who would use his own judgment on behalf of the people. Furthermore, MP's are subject to a strong whip system in the UK, therefore they are known to toe the party line. If the Human Rights Act was non-existent, MP's and their parties would have the power to decide what rights are important and not and whether they had been infringed. Suffice to say that representatives are not partial enough to be relied on by individuals for protection of their human rights fairly.

Without the Act, people could only depend on their elected representatives who are busy, and are effectively controlled by their party which is where their loyalty lies. If an individual were to take a matter of human rights abuse to his MP, the MP is limited on how he can act upon the abuse in favour of the individual. He cannot prosecute the state on behalf of the individual and he cannot change laws. An MP can attempt to pass a law with the 10-minute rule however these are rarely successful. Furthermore, what if the abuse of human rights was by the representative himself? Then who could an individual rely on? The Human Rights Act ensures that any abuse by the state is dealt with in line with the legislation and impartially from the government.

Conclusion

In conclusion, the Human Rights Act is fundamentally important to protect citizens from abuses by the state. Depending on a representative alone for protection of human rights is not enough as he is subject to a whip system, party loyalty and his own judgment. The security of individuals' rights would be damaged if the Human Rights Act were to be repealed.

¹ Essentials of UK Politics, Andrew Heywood 2008

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