

The Human Rights Act: Exploding the Myths

The Human Rights Act (2000) requires all new UK laws and all court judgments to conform with the European Convention on Human Rights. Journalists and politicians attack it with various myths, which we explode here.

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. Anyone can fall foul of incompetent and careless decision-making by public authorities, be wrongly accused of a crime or have their privacy breached by the state's prying eyes. 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 being locked up. In fact, the 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 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. The Act specifically says that people convicted of crimes can, and sometimes 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. Few rights in the Act are absolute. For example, the rights to privacy and freedom of expression can be restricted to protect public safety or national security. Only the rights to life, to freedom from torture or inhuman treatment, and from slavery are absolute. This recognises that in a democratic, civilised society, such treatment is never 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 prevent deportation of people who threaten our national security. 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 civilized societies. So it is not surprising that, even before the Human Rights Act, the law prohibited countries that respect human rights from deporting people to face torture in other countries. Neither does deporting terrorists make national security sense. Surely we are safer if we prosecute them in the UK, and, if found guilty, put them behind bars.

6. Human rights law has meant that murderers and rapists are let back on the streets rather than locked up. Wasn't this why Anthony Rice was freed to go out and murder a 40-year-old mother?

The Probation Service Inspectors' Report shows that Rice was freed because of mistakes and mis-communications. There is no human right for convicted criminals who pose a threat to public safety to be released into society before the end of their sentence. In fact, risking public safety in this way probably breaches human rights law, which requires the Government to take reasonable steps to protect us against serious crimes like murder and rape. The mis-understandings by the probation service mean the probation service needs training, not that the law needs changing.

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

Human rights law requires criminal laws to dissuade people from committing serious crimes like murder and rape, and to punish offenders and 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 protected victims' rights. For example, it has given bereaved relatives the right to an independent public investigation into the circumstances surrounding their loved one's death 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 World War II, but they need changing now to fit the modern world

Human rights are just as important today as they were 50 years ago. The people who experienced the horrors of World War II realised that protecting everyone's human rights would best prevent such atrocities happening again. They were right. Thankfully, the horrors of World War II have not been repeated in countries that have remained committed to protecting human rights. Sadly, war and civil unrest is still rife in countries with frequent human rights violations. We cannot call for an end to gross abuses of rights in other countries unless we also show a commitment to protecting rights at home.

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 as they are now

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

10. The Human Rights Act has cost British taxpayers millions and been a goldmine for lawyers

One of the main reasons for the Act was to cut the costs caused by the fact that people could only enforce their rights by taking their case to the Human Rights Court in Strasbourg. People's rights can now be protected much more efficiently and cost effectively in the UK courts. But the Human Rights Act is not just about lawyers and courts. It has helped many thousands protect their rights without needing costly court cases. For example, local authorities must now treat the vulnerable with dignity, and the Act has helped many public service users 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 on us: the British public voted for it. Before the 1997 general election the Labour Party promised to establish this power to enforce their human rights in UK courts. Secondly, the Act is based on the European Convention on Human Rights, which has nothing to do with Brussels or the EU. Finally, British lawyers played a major role in drawing up the Convention, which also 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 he cannot overturn it. Our MPs still have the final say. The Act simply gave the courts the tools to protect our human rights against abuse by the Government and powerful public bodies.

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