

# HRA: BACKGROUND NOTES

## INTRODUCTION TO HUMAN RIGHTS

Human rights cover various categories and fall into several spheres of life, both public and personal. However, it begins with an understanding that they are the fulfilment of basic societal needs which a human being requires in order to live an acceptable quality of life within their community. Human Rights are not about privileges, hierarchies or about being allowed to do something by the State – they are the basic fundamental freedoms and rights that underpin our society.

Human rights are defined by the United Nations as, *"rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language or any other status. We are all equally entitled to our human rights without discrimination. These rights are interrelated, interdependent and indivisible"*.



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There are different kinds of rights, which are protected in different ways. These rights may be civil rights (e.g. freedom of expression), political rights (e.g. right to vote), economic rights (e.g. right to own property) or cultural rights (e.g. right to education), but there are certain basic principles which are always part of human rights standards no matter what types of rights are under discussion.

## Universal

The principle of universality is the cornerstone of international human rights law. It is the duty of states to promote and protect all human rights and fundamental freedoms, regardless of their political, economic and cultural systems. Human rights must be afforded to everyone, without exception. The entire premise of the framework is that people are entitled to these rights simply by virtue of being human.

## Inalienable

Human rights are inalienable, which means they are a part of who we are as humans. Every single human being has human rights and these cannot be separated from us. Our human rights should not be abused or suppressed, except in specific situations and according to due process.

## Interdependent and indivisible

Human rights are indivisible, interrelated and interdependent. Whether that is civil and political rights, economic, social and cultural rights, or the right to work and self-determination. The improvement of one right facilitates the advancement of the others.

## Equal and non-discriminatory

This principle applies to everyone in relation to all human rights and freedoms, prohibiting discrimination on the bases of a list of non-exhaustive categories such as sex, race, colour etc. Article 1 of the Universal Declaration of Human Rights states "All human beings are born free and equal in dignity and rights".

# HRA: BACKGROUND NOTES

## BRIEF HISTORY

Discussion around human rights as they are known today began after the end of World War II. Prominent figures from around the world came together at the United Nations and the Universal Declaration of Human Rights ("UDHR") was adopted by the UN General Assembly on 10 December 1948. The UDHR sets down the basic rights and freedoms we all have as human beings. However, because it is a resolution by the UN General Assembly, it is not legally binding neither as a matter of international law nor domestic UK law.



The UK has also signed up to the International Covenant on Civil and Political Rights ("ICCPR") and the International Covenant on Economic, Social and Cultural Rights ("ICESCR"), which were adopted under the auspices of the UN in 1966. Because these instruments are legally binding treaties, the UK has assumed an obligation under international law to respect, protect and fulfil the human rights protected by those treaties. However, the UK has not incorporated the rights protected by these treaties into domestic law, so they cannot be directly relied upon in the UK courts. The UDHR together with these two treaties is known informally as the **International Bill of Rights**.

The UDHR also provided the inspiration for the European Convention on Human Rights ("ECHR") which was drafted in 1950 by the then newly formed Council of Europe. All Council of Europe member states are party to the convention, and any new members are expected to ratify the convention at the earliest opportunity. The ECHR, like the ICCPR and ICESCR, is an international treaty, so the UK is under a legal obligation as a matter of international law to respect, protect and fulfil the rights set out in the ECHR. In addition, the ECHR provided for the establishment of a court - the European Court of Human Rights - to hear petitions against States direct from victims of alleged human rights violations.

However, the ECHR was not incorporated into UK domestic law until the Human Rights Act 1998 ("HRA") came into force in the UK in October 2000. It is now the main law protecting your human rights in the UK. It is composed of a series of sections that have the effect of codifying the protections in the European Convention on Human Rights into UK law. The main rights contained in the Convention are actually included at Schedule 1 of the HRA.



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2

# HRA: BACKGROUND NOTES

## THE HRA?

The UK Government and Parliament wanted to 'bring rights home' by:

- enabling UK citizens to bring human rights cases in domestic courts and no longer having to go to Strasbourg to argue the case in the European Court of Human Rights ("ECtHR"); and
- promoting a 'culture of human rights' by making sure that basic human rights underpin the workings of government at the national and local level.

They also argued in the white paper that a significant amount of expense would be saved. It used to take an average of 5 years to get an action into the European Court of Human Rights once all domestic remedies had been exhausted and would cost an average of £30,000. Bringing the rights home meant that British people would be able to argue for their rights in British courts.



## How does the HRA work?

All public bodies and other bodies carrying out public functions have to comply with the convention rights.

These include:

- The police
- NHS organisations and staff
- Local authorities and their employees, e.g. social services, housing etc.
- NHS and private nursing and care homes arranged for out of public funds
- Prison staff

- Courts and tribunals, including Mental Health Tribunals
- Government departments and their employees
- Private companies operating certain public services, e.g. running a prison

It places a legal duty on public bodies to respect and protect our human rights in everything that they do. This means that you have rights and public bodies have legal responsibilities for respecting, protecting and fulfilling human rights.

This duty is important in everyday situations because it enables a person to challenge poor treatment and to negotiate better solutions. Public authorities can also use the Human Rights Act proactively to develop and deliver better services. The duty on public authorities is important because it ensures legal accountability for decisions which affect our human rights.

There are limitations to the HRA as it can only be enforced against public authorities or those bodies carrying out public functions, as mentioned above.

The courts' powers to uphold the ECHR under the HRA are limited. If a court rules that something is contrary to the HRA, a judge can make a 'declaration of incompatibility' under Section 4 of the HRA. While this cannot overturn a piece of legislation, it does allow the government to amend it to be compatible without having to go through the normal legislative process. A further power is reserved to the court by Section 3 of the HRA. This requires legislation to be interpreted by the courts in a way compatible with the Convention, 'so far as it is possible to do so'. This means that if there are two valid interpretations as to what a piece of legislation means, one of which is compatible with the ECHR and one which is not, the compatible interpretation is the one that must be implemented.

# HRA: BACKGROUND NOTES

## TYPES OF RIGHTS

There are three types of rights:

- **Absolute** rights cannot be infringed in any situation – they provide an individual with protection no matter the circumstances.
- **Limited** rights mean that a state is permitted to deprive an individual of that right in certain circumstances. However, the circumstances in which the right can be deprived are expressly set out in the particular article.
- **Qualified** rights can lawfully be interfered with when a state has an adequate justification for doing so. These rights are seen to require a balance between the rights of the individual and the needs of the wider community or state interests.

For limited and qualified rights, the right itself is set out at the beginning of the Article and then criteria are laid out below which detail the circumstances in which it may be infringed.

As mentioned above, limited rights detail specific instances where they can be interfered with. For example, taking life in self-defence, when a person is resisting arrest or for the purposes of suppressing a riot/uprising.

Interference with qualified rights is permissible only if:

- there is a clear legal basis for the interference with the qualified right that people can find out about and understand;
- the action/interference seeks to achieve a legitimate aim. Legitimate aims are set out in each article containing a qualified right and they vary from article to article. They include, for example, the interests of national security, the prevention of disorder or crime, and public safety (e.g. those suspected or convicted of a crime can be deprived of their liberty, but they can't be denied the right to a fair trial). Any interference with one of the rights contained in the Articles must fall under

one of the permitted aims set out in the relevant article;

- the action is necessary in a democratic society. This means that the action or interference must be in response to 'a pressing social need', and must be no greater than that necessary to address the social need i.e. it must be proportionate.

## Balancing Rights

The Human Rights Act states that the protection of one person's rights under the Human Rights Act should not be used to justify the violation of another person's protected rights. This means that public authorities, and particularly the courts, may be required to balance two conflicting rights to come to a decision. These decisions will be heavily dependent on the facts of the case.

## Article 8 v. Article 10: Privacy and the Media - Celebrities and Phone Hacking

Until the Human Rights Act 1998 ("HRA"), there was not a right to privacy which could be enforced in the English courts. The HRA incorporated the convention which includes Article 8 that "everyone has the right to respect for his private and family life, his home and his correspondence."

However, the HRA also incorporates Article 10 of the Convention which guarantees the freedom of expression and freedom of the press. Therefore, when the media want to publish something about someone's private life, the two rights clash and judges have to engage in a sensitive balancing act.

The rights guaranteed by articles 8 and 10 are qualified rights, qualified by the need to protect the rights and freedoms of others. The effect of this is that the right to privacy has to be balanced against the right of the media to publish stories and photos to the public but the right of the media to publish such stories and photos has, in turn, to be balanced against respect for people's private lives.

# HRA: BACKGROUND NOTES

## CASE STUDY

### Celebrities vs. the Media

- The supermodel Naomi Campbell brought a claim against Mirror Group Newspapers Ltd (MGN), over the publication of a photograph that showed her leaving a Narcotics Anonymous (NA) session and the revelation that she was receiving treatment for drug addiction.
- Ms Campbell accepted that MGN could publish the information that she was a drug addict and was receiving treatment for her addiction as she had previously made incorrect claims that she did not take drugs but claimed that they could not publish the details of her treatment or photographs of her leaving the sessions.
- The House of Lords eventually ruled that the disputed material was protected as private information. They agreed that the newspaper was entitled to report the fact of Ms Campbell's drug addiction to correct her previous false statements but went too far in publishing associated facts and pictures about her private life. The pictures especially were given special treatment as they were said to contain more information than a textual description and they were photographs of a private activity.
- Michael Douglas and Catherine Zeta-Jones agreed an exclusive deal with OK! Magazine (worth £1,000,000) for their wedding photos, which they were to approve before publishing. To help preserve this exclusive agreement they put in place strict security measures; no guests were allowed to take photos or cameras into the event and it was closed to other members of the press. However, a freelance photographer obtained access to the event and then sold on the photos to a rival magazine Hello. The celebrity couple applied to court for an injunction to prevent the photos being published and wanted to sue Hello magazine for damages for breach of their privacy.
- The Court of Appeal held that the Douglas' had rights to control the pictures taken at their wedding. Hello magazine knew the information was private and so unless they could justify the use of the photographs their use would be a wrongful invasion of privacy. Again special consideration was given to the fact that the published information were photographs.

# HRA: BACKGROUND NOTES

FOR PUBLISHING	AGAINST PUBLISHING
Freedom of the press - Mr Oaten, Liberal Democrat:  <i>"I concluded that however awful it may be, it's better to have a press which can expose MPs' private lives because it means we have a free press... it means we can expose corruption."</i>	Photos taken without consent
Celebrities make money from creating interest in their private lives, take advantage of this when it suits them e.g. selling photos of weddings, newborns to weekly magazines	As it is their livelihood they should be able to control their public image - Lord Hoffmann observed in <i>Campbell v MGN Ltd</i> that the protection of privacy was essential to " <i>the protection of human autonomy and dignity – the right to control the dissemination of information about one's private life and the right to the esteem and respect of other people</i> ".
Being observed in public places is part of everyday society - " <i>the famous and even the not so famous who go out in public must accept that they may be photographed without their consent, just as they may be observed by others without their consent</i> " (Lord Hoffman in <i>Campbell v MGN Ltd</i> )	Being able to be observed in public is different to having it published to the world at large
If a celebrity has portrayed themselves as a role model for example, speaking out against drug taking and they are then photographed taking drugs, there is a legitimate public interest in that information.	A person should be able to choose the information they share about their private life with the public - " <i>To invade someone's privacy disregards that individual's choices as to when and by whom he or she will be seen and what personal information he or she will divulge</i> "- Leveson Inquiry, pg. 73 of the Report
	It is not in the public interest to know the details of celebrities private lives - " <i>The political and social life of the community, and the intellectual, artistic or personal development of individuals, are not obviously assisted by pouring over the intimate details of a fashion model's private life</i> " ( <b>Baroness Hale in Campbell v MGN Ltd</b> )

## The Phone Hacking Scandal - The media going too far?

Former News of the World editor Andy Coulson was found guilty of conspiracy to hack phones and chief executive Rebekah Brooks was cleared in the phone-hacking trial. Phone hacking was used to listen to people's mobile voicemail. Reporters working for the News of the World would listen to the voicemail messages of high profile people including politicians, celebrities, actors, sports people and notably the murdered school girl Milly Dowler. The phone hacking scandal led to the closure of the News of the World.

# HRA: BACKGROUND NOTES

## OTHER SCENARIOS

1

A group of neo-Nazis are planning to stage a peaceful demonstration on the steps of a synagogue on the Jewish Sabbath. The Rabbi asks the police to stop this happening.

**Freedom of expression & Freedom of association (neo-Nazis) vs freedom of thought, conscience & religion** - issues to raise include public safety and hate speech.

2

A divorcee and her fiancé want to get married in a Catholic church. The Priest refuses to marry them as the woman has previously been married.

**Right to marry & right to private/family life vs freedom of thought, conscience & religion** - issues to raise are that the right to marry isn't really infringed upon as they can go to the titles office and get married.

3

The Prime Minister's bag is stolen from his car. In the bag is a USB pen which the thief sells to the newspapers. On this USB are documents suggesting that three senior MPs have recently used public money to pay for several luxury five course dinners in London, new cars for their spouses and their children's private school fees. The newspaper wants to publish the information.

**Freedom of expression vs right to private life** - the right of free expression will protect media reports that are of public concern and in the public interest. Article 10 has both protected journalists from being required to disclose their sources and provided protection for investigative reporting. It will not shield reports which are obviously false and it may not protect intrusive reports relating to individuals' private lives.

4

A notorious terror suspect has been arrested in the UK, where he has lived for six years with his wife and family. He also has a mistress, with whom he has a further three children, and supports financially. The UK Border Agency wants to extradite the terror suspect to the USA to face trial.

**Right to private life vs right to security** (of the UK residents). The country to which the suspect is being deported is important. Does the State in the US have the death penalty? What if he was to be returned to a country where he would face torture? Or does the security of the UK population out-weigh one person's rights?

# HRA: BACKGROUND NOTES

## ARGUMENTS FOR AND AGAINST THE HRA

If you have more time, you could talk a little more about the arguments for and against the HRA. Please make sure to be objective in your discussion and avoid making any subjective or political comments. Some of the arguments against the Act (and then the counterarguments) are below, taken from the Liberty website:

### The Human Rights Act undermines parliamentary sovereignty

Before the HRA, cases went to the European Court of Human Rights in Strasbourg without any judgment from a British court. The HRA means that British judges now rule on all claims arising in the United Kingdom as a first step, taking account of the ECHR judgments, which arguably increases sovereignty.

The number of cases decided against the UK in the ECHR has actually decreased since the HRA came into force. In 2014, there were only four new judgments finding a violation against the UK.

In these cases, where legislation is found to be incompatible with human rights, the Court can only issue a declaration of incompatibility, leaving it up to UK Parliament to decide how best to respond. The number of cases decided against the UK in the ECHR has actually decreased since the HRA came into force. In 2014, there were only four new judgments finding a violation against the UK.

### The HRA means that people now have a ‘human right’ to anything

The HRA doesn’t protect an endless catalogue of rights, it only protects the 15 well-established fundamental freedoms, like the right to life and the right to a fair trial.

### Human rights have been imposed on the UK by the European Union

The HRA was independently passed by the UK Parliament in 1998, with cross-party support.

The Act simply incorporates the Convention on Human Rights into UK law, itself largely drafted by British lawyers, in the aftermath of the Second World War.

The Convention was adopted by the Council of Europe in 1950 – a body set up after the Second World War to promote democracy, human rights and the rule of law in Europe, not the European Union.

### The Human Rights Act has created a compensation culture

The remedies available are focused on bringing any infringement of human rights to an end. A claim based on breach of human rights isn't the same as a case brought under the law of negligence, where the purpose of the claim is to obtain damages.

In human rights claims, compensation is a secondary consideration and often not awarded at all. The HRA provides that compensation can only be awarded once all the circumstances of the case are taken into account, including what other relief is available.

There's no right to compensation - it's only awarded when it is necessary to ensure 'just satisfaction'. The courts will also consider an applicant's behaviour before awarding damages.

As a result, very few human rights cases involve awards of damages.

# HRA: BACKGROUND NOTES

## APPENDIX 1: ARTICLES OF THE EUROPEAN CONVENTION OF HUMAN RIGHTS

Article	Right/Freedom	Type of Right	Comment
1	General provision	N/A	
2	Right to life	Absolute	<p>1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.</p> <p>2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:</p> <ul style="list-style-type: none"><li>(a) in defence of any person from unlawful violence;</li><li>(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;</li><li>(c) in action lawfully taken for the purpose of quelling a riot or insurrection.</li></ul> <p>This only extends to people - so unborn babies and animals don't have the right to life.</p> <p>In 1982 a Protocol (essentially an 'additional' part to the Convention) was signed outlawing the death penalty in peace time and this was extended to an abolition in all circumstances in 2003. The UK has included this Protocol in the HRA.</p> <p>An example of the application of this Article was when in the UK a social worker from the domestic violence team at a local authority used human rights arguments to secure new accommodation for a woman and her family at risk of serious harm from a violent ex-partner. She had received training on the local authority's obligation to protect the human rights of the woman and her family including their right to life and their right not to be treated in an inhuman or degrading way. (<i>Example provided by the <a href="#">British Institute of Human Rights</a></i>)</p> <p>If a member of your family dies in circumstances that involve the state, you may have the right to an investigation.</p> <p>The courts have held that the right to life does not include a right to take your own life.</p>
3	Freedom from torture and inhumane and degrading treatment	Absolute	No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

# HRA: BACKGROUND NOTES

4	Freedom from enslavement	Absolute	<p>1. No one shall be held in slavery or servitude.</p> <p>2. No one shall be required to perform forced or compulsory labour.</p> <p>3. For the purpose of this Article the term "forced or compulsory labour" shall not include:</p> <ul style="list-style-type: none"> <li>(a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;</li> <li>(b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;</li> <li>(c) any service exacted in case of an emergency or calamity threatening the life or wellbeing of the community;</li> <li>(d) any work or service which forms part of normal civic obligations.</li> </ul>
5	Right to liberty and security	Limited	<p>1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:</p> <ul style="list-style-type: none"> <li>(a) the lawful detention of a person after conviction by a competent court;</li> <li>(b) the lawful arrest or detention of a person for noncompliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;</li> <li>(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;</li> <li>(d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;</li> <li>(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;</li> <li>(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.</li> </ul> <p>2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.</p>

# HRA: BACKGROUND NOTES

			<p>3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.</p> <p>4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.</p> <p>5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation. act.</p>
6	Right to a fair trial	Absolute	<p>1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.</p> <p>2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.</p> <p>3. Everyone charged with a criminal offence has the following minimum rights:</p> <ul style="list-style-type: none"><li>(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;</li><li>(b) to have adequate time and facilities for the preparation of his defence;</li><li>(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;</li><li>(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;</li><li>(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.</li></ul>

# HRA: BACKGROUND NOTES

7	Freedom from retrospective application of the law ("no punishment without law")	Absolute	<p>1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.</p> <p>2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations. This may need some explaining - a flippant example would be a government introducing a new law outlawing marriages to people with the star sign Pisces, then immediately arresting everyone who had 'broken' this law.</p>
8	Right to respect for private and family life	Qualified	<p>1. Everyone has the right to respect for his private and family life, his home and his correspondence.</p> <p>2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. However, it is qualified as social services can intervene to remove children who are at risk (or suspected at risk). A topical example of how this right is considered in the UK is Article 8 applications by refugees or asylum seekers against deportation (DLA Piper actually has a pro bono legal clinic in the London office to assist with eligible applications for those who cannot afford it). As Article 8 is a qualified right, Home Office policy considers all the facts, including the reason for the deportation (i.e. whether a serious offence has been committed), the length of time the person has been in the UK, and whether the person has, for example, young children born in the UK, or a British spouse. While the Home Secretary, Theresa May, has claimed that 'thousands' of people use Article 8 to stay in Britain every year, the number of deportations prevented is actually very small. In 2011, for example, 1,888 appeals were made against such deportation and only 185 of those were allowed on Article 8 grounds (less than 10 per cent of total appeals, and less than 5 per cent of total deportations).</p>
9	Freedom of thought, conscience and religion	Qualified	<p>1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest</p>

# HRA: BACKGROUND NOTES

			<p>his religion or belief, in worship, teaching, practice and observance.</p> <p>2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.</p> <p>Some limitations are permissible in the interests of public safety. For example, the law could require hard hats to be worn in dangerous jobs even though this interferes with the religious freedom of a Sikh to wear a turban.</p>
10	Freedom of expression	Qualified	<p>1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.</p> <p>2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.</p> <p>Examples where limitations may come into play include expression of Holocaust denial, national security (e.g. official secrets) and public morals (e.g. child pornography).</p>
11	Freedom of association	Qualified	<p>1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.</p> <p>2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.</p> <p>E.g. An organisation which advocated racial violence could be banned.</p>

# HRA: BACKGROUND NOTES

12	Right to marry	Limited	<p>Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.</p> <p>Limited by law only: under 16's can't get married, you can't marry a direct relative, you can't marry an inanimate object etc.</p>
13	Right to an effective remedy	Qualified	<p>Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.</p> <p>This is not in the Human Rights Act due to the point above about judges only being able to issue a 'declaration of incompatibility'.</p>
14	Freedom from discrimination	N/A - right only applies in conjunction to other rights	<p>The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.</p> <p>Freedom from discrimination is limited to the rights set out in the Human Rights Act, doesn't apply to all laws.</p>

NB: Articles 2, 3, 4 and 7 remain absolute even in times of war

## FURTHER INFORMATION

[www.savetheact.uk](http://www.savetheact.uk)