



Southampton Group

AMNESTY NEWS

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If you would like more information about the Group or would like to take part in any activities please get in touch by e-mailing:

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March 2016

Changing the Human Rights Act-does it matter? A discussion of the implications of retaining or replacing the HR Act

In February we held a joint session with the Romsey Group. The session was chaired by Jessica Parker BBC South Reporter & Presenter and the discussion was lead by Dr Claire Lougarre, University of Southampton and Dr Alan Whithead, MP Southampton Test. The Conservative Party were asked to put forward a speaker but none was available.

Below is a summary of the key points of discussion.

1. Definition of Human Rights: Fundamental rights that protect concepts related to the very dignity of every human being e.g. freedom from torture; right to a fair trial; access to healthcare; access to education.

2. Historically: Firm historical roots showing protection of vulnerable groups against abuses of the state e.g. Magna Carta 1215.

HR's were incorporated into international law following WW11. HR treaties signed by states within the United Nations and also signed by states within the Council of Europe (intergovernmental organisations at the European level).

3. What is the European Convention on Human Rights: The European Convention of Human Rights (ECHR) is a treaty signed in the context of the latter. It is a treaty between European states, committing themselves to protect rights that are civil and political. The ECHR also established the European Court of Human Rights based in Strasburg. NB this is not part of the European Union.

This means that individuals may bring a complaint when they believe that the state in which they reside has not fulfilled its obligations and has breached one of the rights contained in the ECHR. That individual can take the matter to Court, providing all domestic remedies have been exhausted. If the Court finds violations it will order the state to provide remedies. Continued on page 2

AI's VISION

is of a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights and other international standards

AI's MISSION

is to undertake research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom and conscience and expression and freedom from discrimination, within the context of its work to promote all human rights

AI's CORE VALUES

remain those of international solidarity, effective action for the individual victim, global coverage, the universality and indivisibility of human rights, impartiality and independence, and democracy and mutual respect

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4. Where does the Human Rights Act fit in all this? It codifies the European Convention on Human Rights into UK law. This means that it reiterates the rights that the ECHR contains into a national piece of legislation.

The HR Act is often used in UK courts, to protect human rights of parties involved (they do not have to go to Strasburg and wait a long time).

5. So what are the legal effects of repealing the HR Act?

Situation 1: The UK repeals the HR Act and **does not withdraw** its signature from the European Convention of Human Rights:

- The rights initially protected by the HR Act will **only be protected** by the European Court of Human Rights.
- **Consequences (in theory none):** The UK still has to respect the ECHR and judgements of the Court; plus a lot of those rights are now protected by common law and by other instruments ratified by the UK as part of the EU.
- **Consequence (in practice):** however, international treaties do not have the same impact as national legislation and HR are likely to be impeded in UK proceedings. There would be no accountability for the UK to respect the international law. Not all judges are trained in international law and believe that UK law is above international law. If UK law is above international law then so is the national law of all other European nations and then there is no point in having International Law and no recourse for the citizen to prevent conflicts and abuses.

Situation 2: The UK repeals the HR Act and **withdraws** its signature from the European Convention of Human Rights:

- Individuals in the UK would not be able to bring their human rights **complaints** to the European Court of Human Rights anymore.
- However, the UK would still have to **comply with judgements already held** by the European Court of Human Rights, for instance on prisoner voting.
- Could be a **domino effect** with other states. We would join European states like Belarus, which has an appalling human rights record.
- **Problem of membership to the Council of Europe**, an organisation that is different from the EU and is mandated to protect the rule of law, democracy and HR.
- There would be a substantial **reduction of rights of protection** for minority and vulnerable groups in the UK.

Conservative arguments and suggestions

Problem 1: The European Court of Human Rights has developed “mission creep” because of their interpretations.

Problem 2: Human Rights Act undermines the role of UK courts in deciding on human rights issues in this country.

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Problem 3: Human Rights Act undermines the sovereignty of Parliament, and democratic accountability to the public.

Problem 4 Human Rights Act goes far beyond the UK's obligations under the Convention.

Suggestion 1: The European Court of Human Rights no longer binding over the UK Supreme Court

Suggestion 2: The European Court of Human Rights is no longer able to order a change in UK law and becomes an advisory body only.

Suggestion 3: There is a proper balance between rights and responsibilities in UK law.

Counter Arguments

1. Lot of what is being suggested is based on myths about what HR Act has allowed to happen.
2. It was set up by the Council of Europe and not the European Union.
3. It would start to nibble away at International Law.
4. The idea of any UK Government at any one time setting up a British Bill of Rights has major drawbacks. No UK Government has the right to determine at any one time what constitutes UK citizens' human rights. This could be biased by a right or left wing government. Human Rights could simply be determined by issues that are embarrassing or awkward for the particular government in power at any one time.
5. It is wrong to portray the Human Rights Act as "Labours Human Rights Act", as is being suggested in some Conservative literature. It is true that it was a labour government that signed us up to the Human Rights Act and the European Court of Human Rights, but they did not determine what was in the Act, this had been determined by the Council of Europe after the Second World War.
6. The UK has judges at the European Court along with judges from other European nations.

Some of the issues the HRA has helped

- An elderly couple to stay together in a care home.
- Rape survivors secure justice.
- Children with learning disabilities get support to travel to and from school.
- Families of hospital patients to be consulted about use of "Do not resuscitate" instructions.
- Women fleeing violent partner to keep their family together.

More information available from:

British Institute of Human Rights: <https://www.bihr.org.uk>

RightsInfo-Human Rights Information to Share: rightsinfo.org

Join the campaign sign up at: www.savetheact.uk

NEXT GROUP MEETING

Monday 14th March 2016

Sue BINGHAM

Human Rights in CUBA

7.30 pm
Community Room
Sainsbury's Supermarket
Portswood
Southampton

ALL WELCOME

DIARY

March 2016:

Tuesday 8th: International Women's Day

Monday 14th: Group Meeting: Human Rights in Cuba, Sue Bingham. 7.30 pm Community Room, Sainsbury's Supermarket, Portswood, Southampton.

April 2016:

Sat 9th and Sun 10th: AI UK Nat Conf & AGM Nottingham

Monday 9th: HR in Brazil. Ellie May

SOUTHAMPTON GROUP WHO'S WHO

Group Officers:

Chair: Giampaolo D'Alessandro

Secretary: Valerie Oswald

Treasurer: Cheryl Pitt

Outreach and Parliamentary Officer:
Veronica Tippetts

Press: Currently vacant

Newsletter: John Williams

Campaigning Activity:

Individual at Risk: Eskinder NEGA &
Jorgo Lazro NUNES

**India and South Asia
Women's Human Rights in
Afghanistan**

Death Penalty

Stop Torture Campaign

My Body My Rights Campaign

Issues on the Web

amnesty.org.uk

Includes:

Russia: Justice for Darya, facing prison for peaceful social media posts.

Palestine: Justice for Palestinian circus performer. Mohammad Faisal Abu Sakha has been detained but not charged

Bahrain: Nabeel Rajab has been targeted for defying Bahrain's censors to speak out.

Poems: Poems that make Grown Women Cry.

Human Rights Act: Time to spread the message that human rights matter.

NB the views expressed in this News Letter may not necessarily be those of Amnesty International. John Williams editor