



BRIEFING: SAFEGUARDING HUMAN RIGHTS AT HOME

International human rights laws, norms and standards provide crucial protections for people in the UK. Indeed, British citizens have played a key role in achieving these hard-won gains at the global level, and in making them a reality at home. These rights should be reinforced and celebrated. By striving for an unimpeachable human rights record, the UK is serving not just its own people, but strengthening its ability to act as a credible advocate for human rights internationally.

With this briefing, the United Nations Association – UK (UNA-UK) hopes to provide information on the UK's international human rights obligations and how they have made a positive impact on the lives of people here in the UK. We also seek to support greater understanding of how these protections can be used as empowering tools for ensuring the accountability of the state.

WHAT ARE HUMAN RIGHTS?

At their simplest, human rights are the fundamental standards that are essential for people to live their lives with dignity.

Universal, inalienable and indivisible, the UN's Office of the High Commissioner for Human Rights states: "We are all equally entitled to our human rights without discrimination."

Some human rights may be restricted in certain, tightly prescribed, circumstances. For example, the state may restrict your right to liberty and imprison you if you have been tried and found guilty of a crime. It may also restrict your right to protest if it is believed you may pose a serious danger to the general public.

International human rights law provides guidance on the ways in which the state can interfere with these rights. It not only lays down specific rules about what a state can and cannot do, but also establishes its responsibilities.

These are the positive obligations, that a state must actively undertake in order to protect those within its borders, enable the realisation of human rights and to avoid potential violations.

A UK HUMAN RIGHTS HISTORY

• 1215 – the Magna Carta

Often cited as one of the earliest examples of human rights, the Magna Carta (meaning 'great charter' in Latin) addressed the perceived abuse of power by King John. Perhaps most famously, it upheld the principle of habeas corpus – the right not to be imprisoned without a fair trial.

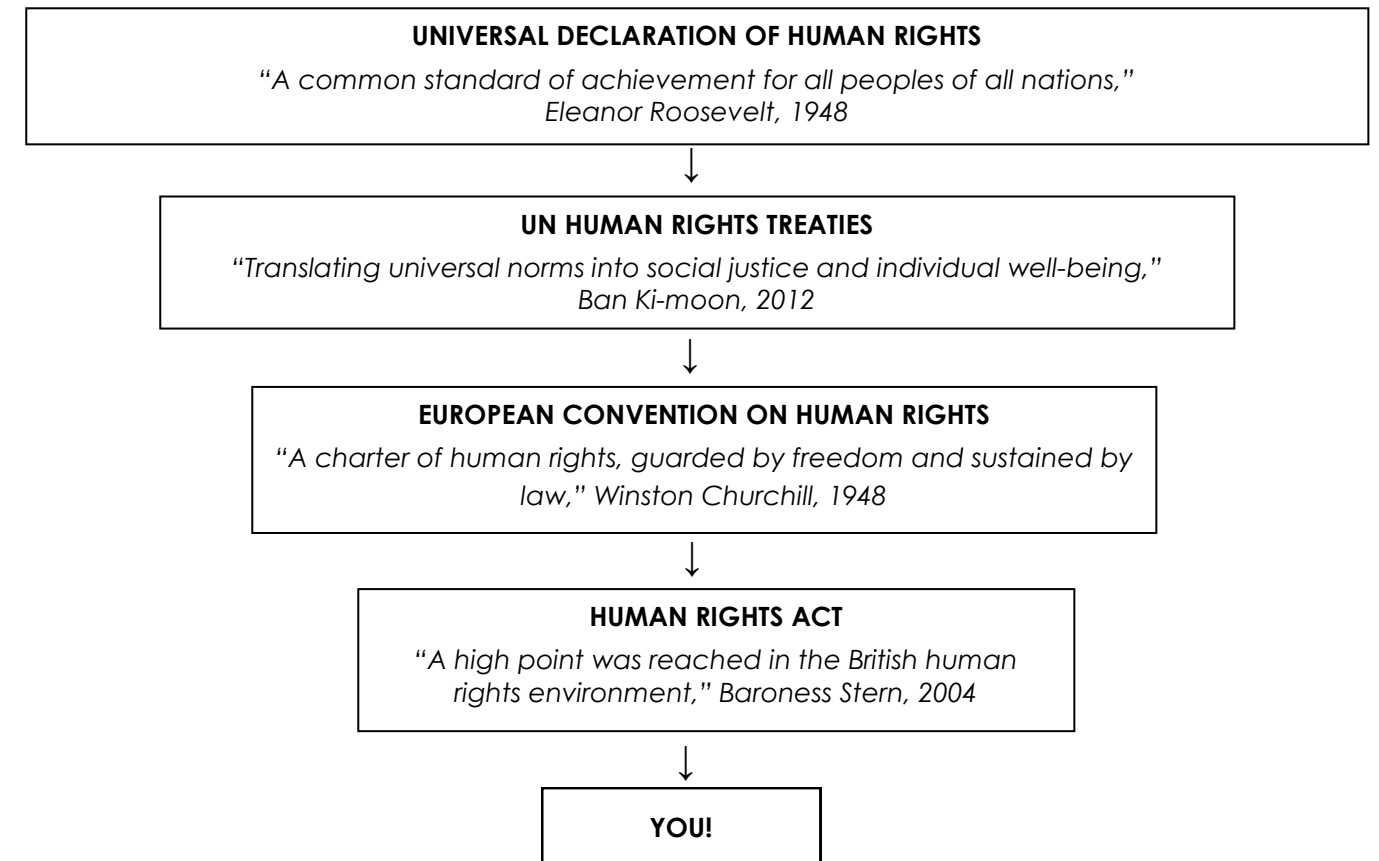
• 1689 – the Bill of Rights

Passed during a period known as the 'Glorious Revolution', this document represented the end of the concept of the divine right of the monarch and for the first time made the King and Queen subject to the laws of Parliament.

• 1948 onwards – post-Second World War

With the founding of the United Nations, world leaders decided to pass an agreement which would guarantee the rights of every individual everywhere. The subsequent Universal Declaration of Human Rights (UDHR) was the first time human rights had been formed in international law. Regional versions were also established, including a European Convention created in 1950. The UK played a key role in drafting both the UDHR and ECHR.

OUR HUMAN RIGHTS SYSTEM



• Universal Declaration of Human Rights

Originally passed by the UN General Assembly, the UDHR is considered by many to be the cornerstone of human rights law. Its provisions form the basis of countless subsequent conventions protecting people the world over. However, the UDHR lacks of any kind of oversight mechanism to monitor or enforce its implementation.

• UN human rights treaties

Since the 1960s, member states of the UN have created nine 'core' human rights treaties which either translate rights set out in the UDHR into state obligations, or expand protections into new areas.

When states sign and ratify a treaty they agree to incorporate its provisions in their own domestic law. Each treaty has a UN monitoring committee. Made up of independent experts they periodically assess treaty implementation by signatory countries.

Some of these conventions are nearly universally ratified, and 80 per cent of UN member states have ratified at least four. Many of these ratifications, however, are caveated with reservations which states use to opt out of certain provisions.

In addition, the system of signing up to optional protocols allows individuals to report violations directly to the committee for review.

• European Convention on Human Rights

Inspired by and drafted shortly after the UDHR, the ECHR gives regional effect to many of the same protections – the prohibition of torture, freedom of assembly, the right to marry and others.

It came into force in 1953 and has since been adopted by all 47 member states of the Council of Europe, who have agreed to be bound by its terms (N.B. the Council of Europe is an intergovernmental body which is entirely separate to the European Union).

The European Court of Human Rights in Strasbourg was established in 1959 to allow judges (elected by the Parliamentary Assembly of the Council of Europe) to oversee states' observance of the Convention. It also enabled individuals with claims of rights violations have their cases heard by a judge.

The deliberately flexible wording of the Convention leaves its provisions open to interpretation by the Court's judges, however, states are given some discretion in implementing it in their own national context (known as the 'margin of appreciation').

• Human Rights Act

Adopted by Parliament with cross-party support in 1998, the Human Rights Act (HRA) incorporated the ECHR's protections into UK law. The HRA states that UK laws should uphold the rights found in the ECHR, and that "it is unlawful for a public authority to act in a way which is incompatible with a Convention right".

In practice this meant that for the first time, people in the UK were able to enforce their human rights before British judges in British courts – described by the Government of the time as "Bringing rights home".

Although people in the UK had been granted these protections in 1953, because it was not a part of domestic law, British judges were not able to enforce them in their judgements. This meant that those who believed their rights had been violated had to take their case directly to the European Court in Strasbourg – a time-consuming and costly enterprise.



“Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world”

Eleanor Roosevelt, one of the drafters of the Universal Declaration of Human Rights, speaking on the occasion of its tenth anniversary in 1958.

MYTH BUSTING

⊗ **Human rights should also come with responsibilities**

They already do. The UDHR makes it clear that none of its provisions may be interpreted as allowing people to impinge on the rights of others. For example, the right to freedom of expression does not allow individuals to incite racial or religious hatred.

⊗ **Human rights only protect criminals**

Human rights are for all people everywhere, but are especially important for particularly vulnerable members of society. Victims of crime have used human rights law to ensure police investigate crimes properly, an invaluable contribution to everyday life in the UK.

⊗ **Human rights give too much power to judges**

If UK courts decide that a piece of legislation is inconsistent with the HRA then all they can do is declare it to be incompatible. It is for Parliament, as the supreme legislative authority, to decide if or how to remedy the situation.

Rulings from the European Court that find an issue of incompatibility can likewise only be remedied by Parliament. Enforcement of these rulings are monitored by the Council of Europe's committee of ministers, who may remove a member state for repeat violations.

⊗ **Human rights lack popular support**

A 2012 UK public consultation held by the independent Commission on a Bill of Rights found that 80 per cent of respondents were in favour of retaining the UK's current human rights protections.

⊗ **Human rights aren't British**

British citizens have been integral in drafting human rights law for hundreds of years. The UK has led the way in signing onto new treaties and in encouraging other states to do so, a useful way of exporting the rules-based system we have in this country.

⊗ **Human rights have gone too far**

False claims of a "human right to KFC" and other absurd notions are misleading. The rights set out in the UDHR are those which are fundamental to democracy, and are the "foundation of freedom, justice and peace in the world".

STRIVING FOR AN UNIMPEACHABLE RECORD

The UK has a good track record of engaging with human rights at the UN. It has helped draft a number of the UN's human rights treaties, seven of which it has signed and ratified. It is an active member of the UN Human Rights Council, the main UN forum for promoting and protecting human rights.

The UK also fares well at the regional level. As one of the drafters of the European Convention it was one of the first to sign it. Since 1998, 15,571 cases taken to the European Court against the UK were rejected. A further 158 cases were considered and judged not to contain violations. And in 246 cases, or just 1.5 per cent of the total, was a violation found. (By comparison, Russia and Turkey jointly accumulated 253 violation rulings in 2013 alone.)

Of course the UK's record is by no means blemish-free. The European Court and the UN's treaty bodies have identified a number of concerning violations over the years, the UK has yet to ratify the Convention on Enforced Disappearances and the Convention on the Rights of Migrant Workers and it is not supportive of the optional protocol mechanisms.

Human rights have secured a number of vital protections for people in the UK, such as:

- 1) The right to private and family life allowed an elderly couple to stay near each other when social services attempted to place one of them in a home far from their family
- 2) The right to liberty allowed a man to leave a mental health hospital where he was staying as a patient after being repeatedly told by nurses that he could not leave the ward
- 3) The right to be free from inhuman or degrading treatment allowed a failed asylum seeker to challenge an eviction notice served to her whilst giving birth
- 4) The right to marry was used to allow a mental health patient to marry his partner, after hospital staff had initially refused being unsure whether he had the capacity to consent to it
- 5) The right to peaceful protest allows lawful demonstrators to claim false imprisonment after being held for five hours without charge

WHAT CAN MEMBERS OF THE PUBLIC DO?

Join UNA-UK: go to www.una.org.uk/join to find out how you can get more involved with UNA-UK's work.
Sign up to our manifesto: UNA-UK's manifesto, 'A global force for good' sets out 10 recommendations for UK foreign policy. To find out more, go to www.una.org.uk/manifesto.
Quiz your local candidates: armed with this briefing and our soon-to-be published hustings guide, arrange a meeting with local candidates and quiz them on the UK's human rights obligations.
Write to your MP: if you support human rights and want to see the UK live up to standards it helped set, why not write to your MP calling on them to do the same? Better yet, send them this briefing.
Contact us: if you have any queries on this briefing, get in touch with the author, Hayley Richardson, at richardson@una.org.uk or 020 7766 3451.

Footnotes for cases cited above from www.ourhumanrightsstories.co.uk:

- 1) Arguing that social services needed to consider Mr V's right to private and family life helped Mr V persuade social services to allow Mrs V to remain in the nursing home close to her family.
- 2) The man's advocate made a written complaint arguing that staff in the hospital were breaching the man's right to liberty . He was discharged soon afterwards.
- 3) A voluntary sector organisation suggested that eviction under these circumstances may amount to inhuman and degrading treatment. Eventually alternative accommodation for the family was secured.
- 4) After human rights training, staff decided it was in the patients best interest to assert his right to marry.
- 5) Five protestors obtained damages after being imprisoned following a peaceful protest.