

The Human Rights Act matters – any new “bill of rights” should build on it, not replace it

Blog Admin

Introduced in 1998, the Human Rights Act has been a source of controversy with accusations of unfairness and a suspicion that it hinders efforts to curtail crime and terrorism. [Conor Gearty](#) reports on a recent LSE discussion of the Act, and finds that, despite criticism by the Conservatives in the past and a ‘rough patch’ under Labour, it is likely here to stay.



Opposition parties love bills of rights, and [Sadiq Khan](#), Labour's capable shadow Justice Minister is no exception. His '[Fair Trial for the Human Rights Act](#)' speech at the LSE last Thursday evening (9 June) produced strong support for the measure, not only from Khan but from most of those in the large audience as well, if the questions at the end were anything to go by. Khan acknowledged that the Act 'protects everyone', pointing in the course of his speech to various landmark successes for the Act familiar to all human rights fans but also making a subtle point about how the Act had 'changed the culture of public bodies'. He said that 'Labour remains proud of the [Human Rights Act](#)'.

Reflecting on the prisoners' votes controversy, he acknowledged that while rights cannot be absolute and deserve to be reduced where individual responsibility has been flouted, the Human Rights Act makes such a compromise perfectly possible. In any event, this issue was one that had been driven not by the UK judges but by the European Court of Human Rights, so the Government had an obligation to make some modifications of the current absolute ban.

The Human Rights Act permits parliamentary override where this is in the national interest: Khan was coruscating about the [Tory pretence that they had to implement a recent decision on rights for those on the sex abuse register](#) – either the Home Secretary did not understand that the courts had issued only a declaration of incompatibility which did not *have* to be implemented, or she didn't even know this – Khan was not sure which was worse. He thought that much of the trouble the Act was in was due to the way it had been reported with such inaccuracy and often with great hostility in the press.

That said, he acknowledged that where Labour had gone wrong in the past was in its failure to embrace the Human Rights Act from its beginnings. Khan thought that it had been a big mistake not to establish a Human Rights Commission, to be up and running from the moment the Act came into force. The Party should also have been 'clearer about what human rights are' and done more 'to educate the public.' And no doubt it had drifted into error at times – Khan gave the example of the control order regime but left an impression that there was, to his mind, more as well.

And the future? As is well-known, the Coalition government has consigned the issue to the long-grass of a Commission but it will return sometime, probably in 2013 (unless events drive it to the surface earlier). It is clear that under Ed Miliband, Labour through Sadiq Khan will be reliable defenders of the Human Rights Act: if there is to be a bill of rights, it will need 'to build on and not replace' the Act. Following the usual trajectory in government, the Lib Dems seem to be weakening on the Act, replacing support for it with support for the European Convention and the Strasbourg system as their latest 'red line'. But it is hard to imagine all the Lib Dems joining the Tories in a vote to repeal the Human Rights Act. Might this be the issue on which the Coalition falls, sometime in late 2013, or early 2014 (so long as Cameron's boundary changes are safely in place)?

And Sadiq Khan? This was an impressive performance, intellectually engaging, articulate and on the whole persuasive. It may well be that Labour has survived its rough patch with human rights (David Blunkett; John Reid) and that its pride in the Human Rights Act will so deepen in opposition that by the time government comes round again (as it surely will), denial of the Act will be unthinkable.

A podcast of the event is now available – [“A Fair Trial for Human Rights”](#) (36 mb, MP3 format).