

Short overview of the Bill



David Lock QC

The background

- For a satirical view on the background see:

See <https://www.theguardian.com/culture/video/2016/apr/25/patrick-stewart-sketch-what-has-the-echr-ever-done-for-us-video>

- Human Rights Watch have described this Bill as a

“power grab by the executive” and that “far from being a Bill of Rights, it is a Bill of Wrongs”.

More moderately ...

Professor Mark Elliott of Cambridge University has said:

“We can now see, then, that the Bill of Rights forms part of a much bigger picture. The Deputy Prime Minister, Dominic Raab, claims that the Bill of Rights is ‘a rights enhancing instrument’. But it’s nothing of the sort. It will in fact weaken human rights protection and, as a result, it will weaken the ability of individuals and courts to hold the Government to account by reference to human rights standards. The real aim of the Bill of Rights is not to enhance human rights protection in the UK: it is to shield from scrutiny on human rights grounds a Government whose authoritarian instincts are increasingly evident”

- See <https://publiclawforeveryone.com/2022/06/23/1000-words-the-bill-of-rights/>

The main proposed effects of the Bill

- Not yet in law – only a “Bill” before parliament
- see <https://publications.parliament.uk/pa/bills/cbill/58-03/0117/220117.pdf>
- Repeals the Human Rights Act 1998 entirely
- UK remains as signatory to the ECHR – still a party to the convention
- It is still unlawful for a public body to act in contravention of convention rights (see cl12)

But seeks a “rebalance”

- Introduces a “permission” requirement to raise HR issues (clause 15)
- Substantial shift in rights as between journalists and personal confidentiality (cls 21 and 22)
- Interim orders of the ECtHR will no longer have effect
 - Rule 39 of the Rules of Court
 - Only in exceptional cases
 - Arguable that binding nature of decisions of ECtHR under article 46 of ECHR only applies to a final judgment

Other provisions (1)

- Limits on damages for breach of human rights under clause 18
- Narrowing of sufficient interest for JR under clause 16 to victims
- Limits to the power to avoid deportation of foreign criminals under clause 20
- Preserves jury trial under clause 9
 - Unclear if this was ever under threat save possibly for the duty to give reasons

Other provisions (2)

- Removes interpretive provisions under s3 HRA
- Makes the UK Supreme Court and not ECtHR ultimate arbitrator of convention rights
 - Not clear how that is compatible with article 32 ECHR but a s19 certificate
- Makes changes to Declarations of Incompatibility
- Changes (and weakens) the law on positive obligations of public bodies (see clause 5)

Thank you for listening

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