

UK Conservatives plan to scrap Human Rights Act

Jean Shaoul
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The incoming Conservative government is to replace the 1998 Human Rights Act with a British “Bill of Rights and Responsibilities.” It will curtail the power of the European Court of Human Rights (ECHR) in Britain, which has overturned a number of decisions in the British courts, including deportation orders and the refusal to grant some prisoners the right to vote in elections.

In effect, the Conservatives will reduce the ECHR to no more than an advisory body. Should the ECHR not accept Parliament’s veto of its rulings, the government would withdraw from the Council of Europe, the human rights watchdog that is not related to any European Union (EU) institution. All Europe’s 48 countries, except Belarus—a military dictatorship—have signed up to the Council of Europe and made the Human Rights Convention part of their constitutional and domestic laws.

The new measures will erode the right to life, to privacy, to a fair trial, to protest and to freedom from torture and discrimination. It will enable the government to deport more people and defy ECHR’s requirements. In relation to foreign policy, the repeal of the act means that UK armed forces could act with impunity, as they would no longer be subject to human rights legislation. Even the right-wing *Economist* magazine, which speaks for British finance capital and demands a more assertive British foreign policy, lamented the “poor signal” it will send “about Britain’s commitment to international law.”

The new legislation, expected to be included in the Queen’s Speech next week, will be introduced by Justice Minister Michael Gove, who supports the reintroduction of the death penalty, under the guise of “restoring national sovereignty,” and “bringing decision making back to Britain.” In so doing, the

government, by falsely implying that the ECHR is part of the EU, is also using it to whip up a nationalist and xenophobic campaign.

The act incorporates the rights enshrined in the European Convention on Human Rights into domestic British law, thereby enabling someone with a complaint under human rights law to get justice from British courts without having to go to the European Court. It requires all public bodies, including central and local government, the police, the National Health Service, prisons and other services to abide by these human rights, and extends to outsourced public services such as care homes.

The Convention includes the right to life, not to be tortured or subjected to inhumane treatment, not to be held as a slave, to liberty and security of the person, to a fair trial, not to be retrospectively convicted for a crime, to a private and family life, to freedom of thought, conscience and religion, to freedom of expression, to freedom of assembly and association, to marriage, to an effective remedy, not to be discriminated against, to the peaceful enjoyment of one’s property and the right to an education.

Breaking the link between British law and the ECHR threatens a constitutional crisis in relation to the devolved regions in Northern Ireland, Scotland and Wales. The Good Friday Agreement that brought to an end the conflict in Northern Ireland specifically requires the incorporation of the European Convention into the laws governing the region.

In addition, the Scottish National Party government in Edinburgh says that the repeal of the act requires its permission, which it would refuse, since Parliament in London cannot legislate on issues relating to the devolved regions without their consent.

Britain’s Human Rights Act was introduced by the

Blair Labour government in 1998 and came into force in 2000. Its antecedents are in the 1950 European Convention on Human Rights, drawn up after World War II in response to the horrendous crimes carried out by the Nazis. The Convention, based in part at least on the principles enshrined in the Magna Carta, drew upon the 1948 Universal Declaration of Human Rights.

It was one of a number of mechanisms, along with the Marshall Plan, during the Cold War against the Stalinist Soviet Union that served to rehabilitate capitalist rule—under conditions where it had been widely discredited—and show it was compatible with democracy and civil liberties, particularly those of Europe’s millions of displaced peoples and refugees.

However, while British lawyers played a major role in drawing up the Convention, and the UK was one of the first states to ratify it in 1953, it only signed up to the court’s jurisdiction in 1966, some seven years after its establishment. It took more than four decades for the British government to incorporate the Convention into British law.

This was forced upon the Labour Party, after numerous defendants during the Thatcher years won high-profile legal actions in the European Court of Human Rights in Strasbourg. These cases highlighted their failure to receive any justice in British courts.

The incoming 1997 Labour government introduced the Human Rights Act, incorporating the European Convention into British domestic law, along with the Freedom of Information Act. This was in order to present itself as a progressive force that would overturn 18 years of reactionary policies carried out by successive Conservative governments and pursue an “ethical foreign policy,” while continuing with the same economic policies.

A major consideration in adopting the act was it would enable defendants to seek redress in British courts without going to Strasbourg. From this perspective, the act was largely successful. There have been approximately 10 critical judgments against the UK a year, compared to hundreds by local judges.

Furthermore, Section 2 of the act only requires UK judges to “take into account”, not follow Strasbourg’s rulings. In other words, the Human Rights Act did not change the right of the British courts to *interpret* rulings by the ECHR.

Even this was too much for the Blair government.

Within a few years, it pledged a “radical overhaul of Britain’s controversial human rights legislation,” following a High Court ruling in 2006 that the government was guilty of an “abuse of power” in its efforts to deport nine Afghans. In a desperate attempt to flee the Taliban regime in Afghanistan, they had hijacked a Boeing 727 in 2000 and forced it to fly to Britain in order to seek asylum.

The Conservative government is proposing to get rid of the Human Rights Act on the basis of an amalgam of lies, falsifications and non-sequiturs about its operations, pointing to the key reason for its abolition. It aims to dispense with all the democratic norms that restrict the ability of the ruling class to wage war on the working class at home and abroad in pursuit of its financial and geostrategic interests.

The act is to go the same way as other key elements of international law over which successive governments in the last 15 years have ridden roughshod.

In addition to waging an illegal war alongside the US against Iraq, governments, both Labour and Conservative-Liberal Democrat, have introduced a raft of anti-democratic legislation that contravene human rights legislation—including attacks on the right to silence, to trial by jury and the right of assembly. In the name of combating terror, the Labour government passed the Prevention of Terrorism Act abrogating the right to free speech, habeas corpus—protection from unlawful detention—and the presumption of innocence upon which all legal and democratic principles have hitherto rested.

The government’s intention to repeal the Human Rights Act is a warning to the working class. The ruling class is breaking with democratic forms of rule. Like its counterparts elsewhere, Britain’s ruling elite is responding to the growth of social antagonisms with a militarist foreign policy, for which it has no popular mandate, and a wholesale assault on democratic rights.



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