Dear Lord Chancellor,

Re. Human Rights Act reform: A Modern Bill of Rights

Our human rights are about the values we hold dear and the way we treat one another – such as dignity, fairness, equality, tolerance, and respect. They are the foundations that help us live together freely and fairly - a safety net to protect us all, including our children. We are therefore very concerned about the UK Government’s far-ranging proposals to replace the Human Rights Act (HRA) with a British Bill of Rights.

As organisations working with and for children, we collectively represent decades of experience in the practical application and realisation of the rights of children across all four jurisdictions of the UK. It is on the basis of this experience and expertise that we outline below our shared concerns in relation to these proposals and the profound and harmful impact we know they will have on children.

The HRA is the primary law which protects fundamental human rights in the UK, including those of children, by enshrining the rights contained in the European Convention on Human Rights into domestic law. As the UN Convention on the Rights on the Child (CRC) has not yet been incorporated into UK law, the HRA also plays a crucial role in the protection and promotion of the rights of children; enabling them to claim and enforce some of the rights contained in the CRC. Since the HRA came into force it has provided important protections for some of our most vulnerable children such as children in care, child witnesses, children in custody, and refugee children.

Importantly for children, who depend heavily on public services, section 6 of the HRA also places a duty on public bodies to comply with the human rights obligations contained within it, including the police and the youth secure estate, care institutions, courts, publicly funded schools, and local authorities. This also requires all public officials to think about human rights in their day-to-day decisions and policy making so that all laws, policies, and guidance are compatible with the HRA.

We believe the proposed reforms will significantly weaken children’s human rights and the ability of children to hold the UK Government and public bodies to account where their rights have been infringed. These include introducing a permission stage, which would create a barrier to children’s access to justice and likely complicate, delay and add cost to proceedings. The HRA already requires a child, or anyone else, who wants to bring a claim under the HRA to show that they are a victim of a human rights breach and there are admissibility stages for legal cases in the UK which prevent frivolous, academic, or unmeritorious cases from proceeding.

We are also concerned about suggestions to change the definition of public authorities. It is extremely important that even if public functions are contracted out to a charity or company the HRA still applies to them. This is particularly crucial for the protection and safeguarding of children who live in institutions which are run by private providers, for example, Secure Training Centres and children’s homes. Any changes to the definition of public authorities could therefore put children at risk.
We also strongly disagree with the proposal to enable courts to make a declaration of incompatibility with the HRA rather than overturning secondary legislation given that such legislation has wide-ranging impact on many aspects of children’s lives. Such a change will weaken UK Government accountability, which is an important protection for ensuring that secondary legislation respects children’s human rights given that it only has very limited parliamentary scrutiny.

Finally, we believe the Government’s proposals for reform to be out of step with political and public opinion in the devolved regions and nations and, in particular, to be incompatible with the Good Friday Agreement and devolution settlement in Northern Ireland. The proposals in the consultation, if enacted, will detrimentally alter the way in which these protections are experienced by children in the devolved regions and nations. The cumulative impact of the proposals will be to limit access to the Convention rights as currently experienced.

We urge the UK Government to abandon its proposals for a British Bill of Rights and to redirect its efforts towards the retention and strengthening of the HRA, alongside a programme of awareness raising so everyone, including children, better understand its protections and freedoms. We work with some of the most vulnerable children in society and it is crucial that their rights, as protected under the HRA, are not diluted in any way.

With best wishes,

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Paddy Kelly, Director, Children’s Law Centre
Sean O’Neil, Policy Director, Children in Wales
Juliet Harris, Director, Together, the Scottish Alliance for Children’s Rights
Louisa McGeehan, CEO, Just for Kids Law
Kathy Evans, CEO, Children England
Anna Feuchtwang, Chief Executive, National Children’s Bureau
Patricia Durr, CEO, Every Child Protected Against Trafficking (ECPAT UK)
Rosalyn Akar Grams, Managing Director of Legal Practice and Children’s Rights, Coram Children’s Legal Centre
Kadra Abdinasir, Strategic Lead, Children and Young People’s Mental Health Coalition
Andy Bell, Deputy CEO, Centre for Mental Health
Pippa Goodfellow, Chief Executive, Alliance for Youth Justice
Carolyne Willow, Director, Article 39
Rita Waters, Group Chief Executive, NYAS (National Youth Advocacy Service)
Mark Lee, Chief Executive, Together Trust
Phil Kerry, Chief Executive, New Horizon Youth Centre
Joan Davis, Director, Family Mediation Northern Ireland
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Daniel Holder, Deputy Director, Committee on the Administration of Justice (CAJ)
Clare Bracey, Director of Policy, Campaigns & Communications, Become
Andrew Copson, Chief Executive, Humanists UK
John O’Doherty, Director, The Rainbow Project
Pauline Walmsley, Chief Executive Officer, Early Years – the organisation for young children
Fiona Greene, Chief Executive, NIACRO