

Research impact: making a difference

Shaping the debate on the future of human rights

LSE research shaped discussions and influenced policy makers during political and legal debate about the Human Rights Act

What was the problem?

The Human Rights Act 1998 (HRA) incorporated the European Convention of Human Rights into UK law following an election pledge by Tony Blair, but Eurosceptic Conservatives regarded it as a challenge to Parliamentary sovereignty.

The Conservatives' 2010 manifesto pledge to replace the HRA with a UK Bill of Rights clashed with Labour and Liberal Democrat promises to protect it, backed by the National Council for Civil Liberties (aka Liberty) and others.

The 2012 Commission on a Bill of Rights, set up by the coalition government, failed to reach unanimous conclusions.

What did we do?

LSE's Human Rights Futures Project monitored and evaluated the impact of the HRA inside and outside the courts. The project, led by Professor Francesca Klug and based in the Department of Sociology's Centre for the Study of Human Rights, engaged in research that involved academics from different disciplines, the legal profession and the public.

In 2006 Klug was appointed Specialist Adviser to the Joint Committee on Human Rights (JCHR), carrying out a review of their working practices through interviews with MPs, Ministers and civil servants, as well as conducting statistical research on the impact of the JCHR on parliamentary debate and culture. The resulting "Klug Report" recommended ways in which the JCHR could assist Parliament to fulfil the role devised for it in the HRA.

From 2007-09 Klug was appointed to the Bill of Rights and Responsibilities Reference Group at the Ministry of Justice to advise the government on its proposals for a Bill of Rights. This appointment was due to her expertise and reputation developed in advising on the HRA before its enactment and implementation. The project provided research and analysis on the background and context to the debate, and drew on comparative material to explain the global implications of moving away from international human rights norms to a more national focus.

The project also researched the relationship between domestic courts and the European Court of Human Rights to monitor how domestic courts were interpreting their duty under the HRA to take into account Strasbourg case law. This was fundamental to the question of whether the HRA was too tied to European ideas of governance to adequately reflect British values of democracy and citizenship.

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What happened?

The research was widely disseminated, and was acknowledged by academics, politicians, judges and non-governmental organisations (NGOs) to have influenced public and professional debates and legal and parliamentary policy making.

The Human Rights Act

The project provided evidence that the Human Rights Act had not diluted Parliamentary sovereignty after recording all the "declarations of incompatibility" made by the UK courts under the HRA and monitoring how Parliament had responded to them. (Such declarations are issued by judges when they consider the terms of a statute in UK legislation to be incompatible with obligations under the HRA.)

"Leading academics, including Professor Francesca Klug...were hugely helpful in the detailed consideration they gave to the squaring of various circles."

Former Home Secretary, Jack Straw

Klug's 2010 column for The Guardian website on Bill of Rights proposals attracted over 400 comments from readers and was published as a booklet by Liberty. It was also cited by NGOs, e.g., in the Equality and Diversity Forum's response to the Commission on a Bill of Rights.

In 2012, Klug joined the Steering Group of a British Academy publication on the future of the HRA.

Bill of Rights

As a member of the Ministry of Justice Bill of Rights and Responsibilities Reference Group, Klug drew on the project's research findings to shape Government proposals published in the 2009 Green Paper "Rights and Responsibilities: developing our constitutional framework." In particular, the Green Paper reflected arguments around the capacity for human rights values to affect social cohesion and democratic governance.

Klug devised a set of indicators to test whether a Bill of Rights would build on the HRA or detract from it. These were cited by the Equality and Diversity Forum and other NGOs in their consultation responses to the Commission on a Bill of Rights and in a joint NGO submission to the United Nations.

Klug provided two sets of written evidence and discussed her work at three private seminars with the Commission on a Bill of Rights in 2012.

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Relationship between domestic courts and the European Court of Human Rights

The project's research on this topic was praised by former Home Secretary Jack Straw.

The Lord Chief Justice, Lord Judge, cited an article by Klug and LSE Research Officer Helen Wildbore as corroboration of his own evidence to the Joint Committee on Human Rights. Lord Judge referred to it as "a most impressive article" which gives a "very carefully structured analysis" of the court's duty under the HRA to take into account Strasbourg law. Supreme Court judge, Lady Hale, also cited the article during her Nottingham Human Rights Lecture.

Klug was invited to comment on a confidential draft report on reform of the European Court of Human Rights by the Ministry of Justice in 2012.

Joint Committee on Human Rights

The Joint Committee on Human Rights altered its working practices as a result of the Klug Report, for example, by commenting on White Papers, thus enhancing the independent voice of Parliament under the HRA.

Equality and Human Rights Commission (EHRC)

Klug was the lead Commissioner for the EHRC's inquiry on human rights, which investigated the impact of the values of the HRA on governance and policy in key public authorities.

Francesca Klug OBE is a Professorial Research Fellow at LSE. She is Director of the [Human Rights Futures Project](#), which seeks to explore and analyse the future direction of human rights discourse in the UK and elsewhere. From 2006-09 Francesca was a Commissioner on the Equality and Human Rights Commission (EHRC), the statutory body that acts as a central point of advice, guidance and enforcement on equality and human rights issues. She worked as an independent academic advisor to ministers and officials on the Equality Act 2006, which established the EHRC.

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LSE gratefully acknowledges the following for support of this research:

Atlantic Philanthropies
Joseph Rowntree Charitable Trust

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