* Article 2: Right to life
* Article 3: Freedom from torture and inhuman or degrading treatment
* Article 4: Freedom from slavery and forced labour
* Article 5: Right to liberty and security
* Article 6: Right to a fair trial
* Article 7: No punishment without law
* Article 8: Respect for your private and family life, home and correspondence
* Article 9: Freedom of thought, belief and religion
* Article 10: Freedom of expression
* Article 11: Freedom of assembly and association
* Article 12: Right to marry and start a family
* Article 14: Protection from discrimination in respect of these rights and freedoms
* Protocol 1, Article 1: Right to peaceful enjoyment of your property
* Protocol 1, Article 2: Right to education
* Protocol 1, Article 3: Right to participate in free elections
* Protocol 13, Article 1: Abolition of the death penalty

**The Human Rights Act’s**

**1998**

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**Article 2:**

**Right to life**

**Demeanour**

This means that nobody, including the Government, can try to end your life. It also means the Government should take appropriate measures to safeguard life by making laws to protect you and, in some circumstances, by taking steps to protect you if your life is at risk.

Public authorities should also consider your right to life when making decisions that might put you in danger or that affect your life expectancy.

If a member of your family dies in circumstances that involve the state, you may have the right to an investigation. The state is also required to investigate suspicious deaths and deaths in custody.

The courts have decided that the right to life does not include a right to die.

Separately, Protocol 13, Article 1 of the Human Rights Act makes the death penalty illegal in the UK.

Are there any restrictions to this right?

Article 2 is often referred to as an ‘absolute right’. These are rights that can never be interfered with by the state. There are situations, however, when it does not apply.

For example, a person’s right to life is not breached if they die when a public authority (such as the police) uses necessary force to:

* stop them carrying out unlawful violence
* make a lawful arrest
* stop them escaping lawful detainment, and
* stop a riot or uprising.

Of course, even in these circumstances, the force used must be essential and strictly proportionate. Force is ‘proportionate’ when it is appropriate and no more than necessary to address the problem concerned.

The positive obligation on the state to protect a person’s life is not absolute. Due to limited resources, the state might not always be able fulfil this obligation. This could mean, for example, that the state does not have to provide life-saving drugs to everyone in all circumstances.

**Using this right – example;**

A social worker from the domestic violence team in a local authority used human rights arguments to get new accommodation for a woman and her family at risk of serious harm from a violent ex-partner. She based her case on the local authority’s obligation to protect the family’s right to life and the right not to be treated in an inhuman or degrading way.

(Example provided by the British Institute of Human Rights)

**What the law says**;

Article 2: Right to life

1. Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which the penalty is provided by law.
2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:
* in defence of any person from unlawful violence
* in order to effect a lawful arrest or to prevent the escape of a person lawfully detained, and
* in action lawfully taken for the purpose of quelling a riot or insurrection.

**Note:** See Article 1 of Protocol 13 for the wording in the Act that makes the death penalty illegal in the UK.

**Example case:** Pretty v United Kingdom [2002]

A woman suffering from an incurable degenerative disease wanted to control when and how she died. To avoid an undignified death, she wanted her husband to help her take her life. She sought assurance that he would not be prosecuted, but the European Court of Human Rights found that the right to life does not create a right to choose death rather than life. It meant there was no right to die at the hands of a third person or with the assistance of a public authority.

Case summary taken from Human rights, human lives: a guide to the Human Rights Act for public authorities, which shares examples and legal case studies that show how human rights work in practice.

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**Article 3:**

Freedom from torture and inhuman or degrading treatment

Demeanour

**Article 3** **protects you from:**

torture (mental or physical)

inhuman or degrading treatment or punishment, and

deportation or extradition (being sent to another country to face criminal charges) if there is a real risk you will face torture or inhuman or degrading treatment or punishment in the country concerned.

As you would expect, public authorities must not inflict this sort of treatment on you. They must also protect you if someone else is treating you in this way. If they know this right is being breached, they must intervene to stop it. The state must also investigate credible allegations of such treatment.

**What is torture?**

Torture occurs when someone deliberately causes very serious and cruel suffering (physical or mental) to another person. This might be to punish someone, or to intimidate or obtain information from them.

**What is inhuman treatment?**

Inhuman treatment or punishment is treatment which causes intense physical or mental suffering. It includes:

serious physical assault

psychological interrogation

cruel or barbaric detention conditions or restraints

serious physical or psychological abuse in a health or care setting, and

threatening to torture someone, if the threat is real and immediate.

**What is degrading treatment?**

Degrading treatment means treatment that is extremely humiliating and undignified. Whether treatment reaches a level that can be defined as degrading depends on a number of factors. These include the duration of the treatment, its physical or mental effects and the sex, age, vulnerability and health of the victim. This concept is based on the principle of dignity - the innate value of all human beings.

**Are t****here any restrictions to this right?**

Your right not to be tortured or treated in an inhuman or degrading way is absolute. This means it must never be limited or restricted in any way. For example, a public authority can never use lack of resources as a defence against an accusation that it has treated someone in an inhuman or degrading way.

**Using this right – example;**

A young man with mental health problems was placed in residential care. During a visit, his parents noticed bruising on his body. They raised the issue with the care managers but their concerns were dismissed. They were also banned from visiting their son. The parents raised their son’s right not to be treated in an inhuman and degrading way and their right to respect for family life. The ban on visits was revoked and the bruising on the young man’s body was investigated.

(Example taken from ‘The Human Rights Act: Changing Lives’, British Institute of Human Rights, 2006.)

**What the law says;**

Article 3: Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

**Example case** - Chahal v United Kingdom [1996]

An Indian Sikh living in the UK claimed he would be tortured if deported to India because he was a high-profile supporter of Sikh separatism. The UK still sought to deport him on suspicion of being a terrorist. In a very important case, the European Court of Human Rights held that Article 3 prohibited his removal as he faced a real risk of torture or inhuman or degrading treatment. The Court stressed that his suspected involvement in terrorism was irrelevant – the protection afforded by Article 3 is absolute and extends to every human being, regardless of their conduct.

See the publication ‘Human rights, human lives: a guide to the Human Rights Act for public authorities’ for more examples and legal case studies that show how human rights work in practice.

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**Article 4:**

Freedom from slavery and forced labour

Demeanour

Article 4 protects your right not to be held in slavery or servitude, or made to do forced labour

Slavery is when someone actually owns you like a piece of property.

Servitude is similar to slavery - you might live on the person’s premises, work for them and be unable to leave, but they don’t own you.

Forced labour means you are forced to do work that you have not agreed to, under the threat of punishment.

**Are there any restrictions to this right?**

Your right to be protected against slavery and servitude is absolute, which means it can never be restricted.

The right relating to forced labour is also absolute. However, it does not apply to work that:

you have to do as part of a prison or community sentence

the government requires you to do in a state of emergency, such as after a natural or man-made disaster, and

is part of normal civic obligations, like jury service.

**What the law says;**

Article 4: Prohibition of slavery and forced labour

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. For the purpose of this Article the term ‘forced or compulsory labour’ shall not include:

any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention

any service of a military character or, in case of conscientious
objectors in countries where they are recognised, service exacted instead of compulsory military service

any service exacted in case of an emergency or calamity threatening the life or well-being of the community, or

any work or service which forms part of normal civic obligations.

Example case - Siliadin v France [2005]

A 15-year-old girl was brought to France from Togo by ‘Mrs D’, who paid for her journey but then confiscated her passport. It was agreed that the girl would work for Mrs D until she had paid back her air fare, but after a few months she was ‘lent’ to another couple. They forced her to work 15 hours a day, seven days a week with no pay, no holidays, no identity documents and without authorisation of her immigration status. The girl wore second-hand clothes and did not have her own room. The authorities intervened when made aware of the situation, but slavery and servitude were not a specific criminal offence in France at that time. The European Court of Human Rights held that the girl had been kept in servitude and that France had breached its positive obligations under the prohibition of slavery and forced labour. This was because French law had not given the girl specific and effective protection.

(Case summary taken from ‘Human rights, human lives: a guide to the Human Rights Act for public authorities. Download the publication for more examples and legal case studies that show how human rights work in practice.)

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**Article 5:**

Right to liberty and security

Demeanour

It focuses on protecting individuals’ freedom from unreasonable detention, as opposed to protecting personal safety.

You have a right to your personal freedom. This means you must not be imprisoned or detained without good reason.

If you are arrested, the Human Rights Act provides that you have the right to:

be told in a language you understand why you have been arrested and what charges you face

be taken to court promptly

bail (temporary release while the court process continues), subject to certain conditions

have a trial within a reasonable time

go to court to challenge your detention if you think it is unlawful, and

compensation if you have been unlawfully detained.

**Are there any restrictions to this right?**

There are certain circumstances in which public authorities can detain you as long as they act within the law. This applies, for example, if:

* you have been found guilty of a crime and sent to prison.
* you have not done something a court has ordered you to do.
* there is reasonable suspicion that you have committed a crime, someone is trying to stop you committing a crime or they are trying to stop you running away from a crime
* you have a mental health condition which makes it necessary to detain you.
* you are capable of spreading infectious disease.
* you are attempting to enter the country illegally, and
* you are going to be deported or extradited (sent to a country where you have been accused of a crime).

**Using this right – examples;**

Steven, a young man with autism, needed temporary care while his father was unwell. The father assumed his son would stay at his usual respite care home, but the local council placed Steven in a specialist unit because of concerns about his behaviour. His father expected this to be a temporary move and for Steven be home again within weeks. When the council insisted on keeping him in the unit for longer, his father challenged this decision. Steven had been detained in the unit for almost a year when the Court of Protection (a specialist court at the High Court which deals with issues concerning people who lack the mental capacity to make decisions for themselves) ruled that the council had breached his Article 5 rights and unlawfully deprived him of his liberty. The court order enabled Steven to return home.

(Re Steven Neary; LB Hillingdon v Steven Neary (2011) EWHC 1377 (COP))

**What the law says;**

Article 5: Right to liberty

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
* the lawful detention of a person after conviction by a competent court
* the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law
* the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so
* the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority
* the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants
* the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
1. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
2. Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
3. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
4. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

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**UK**

**Article 6:**

Right to a fair trial

Demeanour

You have the right to a fair and public trial or hearing if:

you are charged with a criminal offence and have to go to court, or

a public authority is making a decision that has an impact upon your civil rights or obligations.

In this context, your civil rights and obligations are those recognised in areas of UK law such as property law, planning law, family law, contract law and employment law.

It is a good idea to get further advice if you think the right to a fair and public hearing might apply to your case.

**What is a fair and public hearing?**

You have the right to a fair and public hearing that:

* is held within a reasonable time
* is heard by an independent and impartial decision-maker
* gives you all the relevant information
* is open to the public (although the press and public can be excluded for highly sensitive cases)
* allows you representation and an interpreter where appropriate, and is followed by a public decision.
* You also have the right to an explanation of how the court or decision-making authority reached its decision.

**What rights do you have at a criminal trial?**

You have the right to:

* be presumed innocent until you are proven guilty
* be told as early as possible what you are accused of
* remain silent
* have enough time to prepare your case
* legal aid (funding) for a lawyer if you cannot afford one and this is needed for justice to be served
* attend your trial
* access all the relevant information
* put forward your side of the case at trial
* question the main witness against you and call other witnesses, and
* have an interpreter, if you need one.

Everybody must have equal access to the courts under the Human Rights Act. This includes a right to bring a civil case (a case between individuals or organisations), although this right can be restricted in some situations (see below).

See also the right to no punishment without law.

**Are there any restrictions to this right?**

The right to a fair and public hearing does not always apply to cases involving:

* immigration law
* extradition
* tax, and
* voting rights.

There is also no automatic right to an appeal (an application to a higher court for the reversal of the decision of a lower court).

The right of access to the courts can be restricted, for example, if you:

* keep bringing cases without merit
* miss the time-limit for bringing a case.

There are times when the public and press are denied access to a hearing. This can happen in the interests of protecting:

* morals
* public order or national security
* children and young people, or
* privacy.

The courts might also decide to exclude the public or press if they think that their presence is not in the interests of justice.

**What the law says**;

Article 6: Right to a fair and public hearing

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice,
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights: to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him
* to have adequate time and facilities for the preparation of his defence
* to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require
* to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him
* to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

**Example case** - DG v Secretary of State for Work and Pensions (ESA) [2010]

DG appealed against a decision to refuse him Employment and Support Allowance (ESA), which was taken after a medical examination. Even though DG requested Jobcentre Plus to contact his GP (also his nominated representative), neither the GP nor DG’s social worker were approached for evidence. At the first stage of the independent tribunal process (the First Tier Tribunal), DG waived his right to put his case in person at an oral hearing. This decision was based on advice from Jobcentre Plus. The appeal was dealt with on paper and dismissed.

When DG appealed this decision, the Upper Tribunal found that DG did not have a fair hearing of his appeal as required by Article 6. This decision considered the bad advice from Jobcentre Plus, the claimant’s mental health problems and the failure of both the Department for Work and Pensions and the tribunal to communicate with his GP.

(Case summary taken from ‘Human rights, human lives: a guide to the Human Rights Act for public authorities. Download the publication for more examples and legal case studies that show how human rights work in practice.)

**The Human Rights Act’s**

**1998**

**UK**

**Article 7:**

No punishment without law

Demeanour

Article 7 of the Human Rights Act

Article 7 means you cannot be charged with a criminal offence for an action that was not a crime when you committed it.

This means that public authorities must explain clearly what counts as a criminal offence so you know when you are breaking the law.

It is also against the law for the courts to give you a heavier punishment than was available at the time you committed an offence.

**Are there any restrictions to this right?**

The right to no punishment without law is absolute. This means that it cannot be restricted in any way.

However, the Human Rights Act does make an exception for acts that were ‘against the general law of civilised nations’ at the time they were committed. It was this type of provision that allowed war crimes and crimes against humanity to be prosecuted following the Second World War.

**What the law says;**

Article 7: No punishment without law;

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.
2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

**Example case** - R v Secretary of State for the Home Department, ex parte Uttley [2004]

A man convicted of various sexual offences, including rape, was sentenced to 12 years’ imprisonment. He was released after serving two-thirds of his sentence, subject to licence conditions (rules that must be followed after early release from prison) that applied for three-quarters of the original sentence. Had he been convicted and sentenced at the time the offences took place, however, the legal provisions then in force would have entitled him to temporary release without conditions. He argued that his licence conditions represented a heavier penalty than was applicable at the time his offences were committed, and that his right to no punishment without law had been breached.

The House of Lords disagreed. They held that human rights law would only be infringed if a sentence exceeded the maximum penalty available under the law in force at the time the offence was committed. That was not the case here because, even at the date of the offences, the maximum sentence for rape was life imprisonment. The intention of the right to no punishment without law was not to punish an offender in exactly same way as would have been the case at the time of the offence. It simply ensures that a person is not punished more heavily than the maximum penalty applicable at the time of the offence. In this case, the imposition of licence conditions did not make the sentence heavier than it would have been under the earlier regime.

(Case summary taken from ‘Human rights, human lives: a guide to the Human Rights Act for public authorities. Download the publication for more examples and legal case studies that show how human rights work in practice.)

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**UK**

**Article 8:**

Respect for your private and family life, home and correspondence

Demeanour

Article 8 protects your right to respect for your private life, your family life, your home and your correspondence (letters, telephone calls and emails, for example).

**What is meant by private life?**

You have the right to live your life privately without government interference.

The courts have interpreted the concept of ‘private life’ very broadly. It covers things like your right to determine your sexual orientation, your lifestyle, and the way you look and dress. It also includes your right to control who sees and touches your body. For example, this means that public authorities cannot do things like leave you undressed in a busy ward, or take a blood sample without your permission.

The concept of private life also covers your right to develop your personal identity and to forge friendships and other relationships. This includes a right to participate in essential economic, social, cultural and leisure activities. In some circumstances, public authorities may need to help you enjoy your right to a private life, including your ability to participate in society.

This right means that the media and others can be prevented from interfering in your life. It also means that personal information about you (including official records, photographs, letters, diaries and medical records) should be kept securely and not shared without your permission, except in certain circumstances.

**What is meant by family life?**

You have the right to enjoy family relationships without interference from government. This includes the right to live with your family and, where this is not possible, the right to regular contact.

‘Family life’ can include the relationship between an unmarried couple, an adopted child and the adoptive parent, and a foster parent and fostered child.

See also the right to marry.

**What is meant by home?**

The right to respect for your home does not give you a right to housing. It is a right to enjoy your existing home peacefully. This means that public authorities should not stop you entering or living in your home without very good reason, and they should not enter without your permission. This applies whether or not you own your home.

See also the right to peaceful enjoyment of property.

**Are there any restrictions to this right?**

There are situations when public authorities can interfere with your right to respect for private and family life, home and correspondence. This is only allowed where the authority can show that its action is lawful, necessary and proportionate in order to:

* protect national security
* protect public safety
* protect the economy
* protect health or morals
* prevent disorder or crime, or
* protect the rights and freedoms of other people.

Action is ‘proportionate’ when it is appropriate and no more than necessary to address the problem concerned.

Using this right - example

A physical disabilities team at a local authority decided to use support workers to help service users enjoy social activities, including visits to pubs and clubs. But when a service user asked to be accompanied to a gay pub, the scheme manager refused on the grounds that the support workers were not prepared to attend a gay venue. Recognising the human rights angle, an advocate working on behalf of the service user challenged this decision based on the right to respect for private life.

(Example provided by the British Institute of Human Rights.)

**What the law says;**

Article 8: Right to privacy

Everyone has the right to respect for his private and family life, his home and his correspondence.

There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

**Example case** - Goodwin & I v United Kingdom [2002]

This case heard in the European Court of Human Rights explored issues for transsexual people in relation to their rights to private life and to marry. The judgment was a landmark decision for the treatment of transsexual people, a group which had not been recognised in UK law as:

their acquired gender

* able to hold a birth certificate showing their acquired gender, and
* able to marry someone of the opposite gender.

The Court ruled that this treatment violated both the right to private life and the right to marry. The UK Government later introduced the Gender Recognition Act 2004, creating a mechanism to enable all these things.

See the publication ‘Human rights, human lives: a guide to the Human Rights Act for public authorities’ for more examples and legal case studies that show how human rights work in practice.

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**Article 9:**

Freedom of thought, belief and religion

Demeanour

It includes the right to change your religion or beliefs at any time.

You also have the right to put your thoughts and beliefs into action. This could include your right to wear religious clothing, the right to talk about your beliefs or take part in religious worship. Public authorities cannot stop you practising your religion, without very good reason – see the section on restrictions below.

Importantly, this right protects a wide range of non-religious beliefs including atheism, agnosticism, veganism and pacifism. For a belief to be protected under this article, it must be serious, concern important aspects of human life or behaviour, be sincerely held, and be worthy of respect in a democratic society.

**Are there any restrictions to this right?**

Public authorities cannot interfere with your right to hold or change your beliefs, but there are some situations in which public authorities can interfere with your right to manifest or show your thoughts, belief and religion. This is only allowed where the authority can show that its action is lawful, necessary and proportionate in order to protect:

* public safety
* public order
* health or morals, and
* the rights and freedoms of other people.

Action is ‘proportionate’ when it is appropriate and no more than necessary to address the problem concerned.

**Using this right – example**

The European Court of Human Rights has found that a person cannot be forced to demonstrate views or behaviour associated with a particular religion. This means, for example, that public authorities should take care when using procedures that involve the swearing of oaths. A requirement to swear on a religious text, such as the Bible, would breach human rights law. An alternative form of affirmation should be available that isn’t connected with religion.

(Example taken from Human rights, human lives: a guide to the Human Rights Act for public authorities.)

**What the law says;**

Article 9: Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching practice and observance.
2. Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

**Example case** - R (Williamson and others) v Secretary of State for Education and Employment and others [2005]

A group of parents and teachers tried unsuccessfully to use Article 9 to overturn the ban on corporal punishment of children in schools. They believed that part of the duty of education in the Christian context was for teachers to assume the parental role and administer physical punishment to misbehaving children. The House of Lords rejected the case because the parents’ rights under Article 9 were restricted by the need to protect children from the harmful effects that corporal punishment might cause – a punishment that involves deliberately inflicting physical violence. The House of Lords concluded that the vulnerability of children made the legislation necessary and that the statutory ban on corporal punishment in schools pursued a legitimate aim and was proportionate.

(Case summary taken from Human rights, human lives: a guide to the Human Rights Act for public authorities. Download the publication for more examples and legal case studies that show how human rights work in practice.)

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**Article 10:**

Freedom of expression

Demeanour

Article 10 protects your right to hold your own opinions and to express them freely without government interference.

This includes the right to express your views aloud (for example through public protest and demonstrations) or through:

published articles, books or leaflets

television or radio broadcasting

works of art, and

the internet and social media.

The law also protects your freedom to receive information from other people by, for example, being part of an audience or reading a magazine.

**Are there any restrictions to this right?**

Although you have freedom of expression, you also have a duty to behave responsibly and to respect other people’s rights.

Public authorities may restrict this right if they can show that their action is lawful, necessary and proportionate in order to:

* protect national security, territorial integrity (the borders of the state) or public safety
* prevent disorder or crime
* protect health or morals
* protect the rights and reputations of other people
* prevent the disclosure of information received in confidence, and
* maintain the authority and impartiality of judges.

An authority may be allowed to restrict your freedom of expression if, for example, you express views that encourage racial or religious hatred.

However, the relevant public authority must show that the restriction is ‘proportionate’, in other words that it is appropriate and no more than necessary to address the issue concerned.

**Using this right – example**

This right is particularly important for journalists and other people working in the media. They must be free to criticise the government and our public institutions without fear of prosecution – this is a vital feature of a democratic society. But that doesn't prevent the state from imposing restrictions on the media in order to protect other human rights, such as a person's right to respect for their private life.

**What the law says;**

Article 10: Freedom of expression;

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

**Example case** - Observer and The Guardian v United Kingdom [1991]

The Guardian and The Observer newspapers published excerpts from Peter Wright’s book Spy-catcher, a memoir that included allegations that MI5 had acted unlawfully.

The Government succeeded in obtaining a court order preventing the newspapers from printing further material until proceedings relating to a breach of confidence had finished. But when the book was published in other countries and then in the UK, The Guardian complained that the continuation of the court order infringed the right to freedom of expression in Article 10.

The European Court of Human Rights held that, although the court order was lawful as it was in the interests of national security, there was insufficient reason for continuing the newspaper publication ban once the book had been published. The court order should have ended once the information was no longer confidential.

(Case summary taken from ‘Human rights, human lives: a guide to the Human Rights Act for public authorities. Download the publication for more examples and legal case studies that show how human rights work in practice.)

The Commission has also published a guide that explains the legal framework which protects freedom of expression and where that freedom may be restricted in order to prevent violence, abuse or discrimination.

**The Human Rights Act’s**

**1998**

**UK**

**Article 11:**

Freedom of assembly and association

Demeanour

You also have the right to form and be part of a trade union, a political party or any another association or voluntary group. Nobody has the right to force you to join a protest, trade union, political party or another association.

**Are there any restrictions to this right?**

There are some situations where a public authority can restrict your rights to freedom of assembly and association.

This is only the case where the authority can show that its action is lawful, necessary and proportionate in order to:

* protect national security or public safety
* prevent disorder or crime
* protect health or morals, or
* protect the rights and freedoms of other people.

Action is ‘proportionate’ when it is appropriate and no more than necessary to address the issue concerned.

You may face a wider range of restrictions if you work for the armed forces, the police or the Civil Service.

**What the law says;**

Article 11: Freedom of assembly and association.

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the state.

**Example case;**

In August 2010, the English Defence League (EDL) planned a protest in Bradford. A counter demonstration by Unite Against Fascism was also planned. Some local people wanted the protest banned and there were concerns about a repeat of the violent clashes that had happened at previous EDL events. West Yorkshire Police had a duty to protect the protest unless there was clear evidence that violence would occur. They examined the human rights aspect of the situation and talked to local people, in particular the Muslim community, about the right to peaceful protest. After this explanation the community realised that the police had to allow the protest. Community groups worked with the police to persuade young people not to get involved in criminal activity on the day.

See the publication ‘Human rights, human lives: a guide to the Human Rights Act for public authorities’ for more examples and legal case studies that show how human rights.

**The Human Rights Act’s**

**1998**

**UK**

**Article 12:**

Right to marry and start a family

Demeanour

Article 12 protects the right of men and women of marriageable age to marry and to start a family.

See also Respect for your private and family life.

**Are there any restrictions to this right?**

Your right to marry is subject to national laws on marriage, including those that make marriage illegal between certain types of people (for example, close relatives),

Although the government is able to restrict the right to marry, any restrictions must not be arbitrary and not interfere with the essential principle of the right.

How does this right apply to transsexual people?

The European Court of Human Rights ruled in 2002 that this right extends to transsexual people. They are able to marry or enter civil partnerships in their acquired gender because of the Gender Recognition Act 2004, the Marriage (Same Sex Couples) Act 2013 and the Marriage and Civil Partnership (Scotland) Act 2014.

**What the law says;**

Article 12: Right to marriage

Men and women of marriageable age shall have the right to marry and to found a family, according to national laws governing the exercise of this right.

**Example case** - B & L v the United Kingdom [2005]

English law prevented a parent-in-law from marrying their child-in-law unless both had reached the age of 21 and both their respective spouses had died.

B was L’s father-in-law, and they wished to marry. L’s son treated his grandfather, B, as ‘Dad’. The court accepted the Government’s argument that the law had the valid aim of protecting the family and any children of the couple. But it held that their right to marry had been violated. The law was based primarily on tradition, and there was no legal reason why a couple in this situation could not have a relationship. There had also been several cases where couples in the same circumstances had obtained exemptions by personal Acts of Parliament (laws for the benefit of individuals). This showed that the objections to such marriages were not absolute.

(Case summary taken from ‘Human rights, human lives: a guide to the Human Rights Act for public authorities. Download the publication for more examples and legal case studies that show how human rights work in practice.)

**The Human Rights Act’s**

**1998**

**UK**

**Article 13: 14**

Protection from discrimination in respect of these rights and freedoms

Demeanour

Discrimination occurs when you are treated less favourably than another person in a similar situation and this treatment cannot be objectively and reasonably justified. Discrimination can also occur if you are disadvantaged by being treated the same as another person when your circumstances are different (for example if you are disabled or pregnant).

It is important to understand that the Human Rights Act does not protect you from discrimination in all areas of your life – there are other laws that offer more general protection, such as the Equality Act 2010.

What the Act does do is protect you from discrimination in the enjoyment of those human rights set out in the European Convention of Human Rights. Article 14 is based on the core principle that all of us, no matter who we are, enjoy the same human rights and should have equal access to them.

The protection against discrimination in the Human Rights Act is not ‘free-standing’. To rely on this right, you must show that discrimination has affected your enjoyment of one or more of the other rights in the Act. However, you do not need to prove that this other human right has actually been breached.

**What type of discrimination does the Act protect you from?**

The Human Rights Act makes it illegal to discriminate on a wide range of grounds including ‘sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status’.

The case law relating to this right has shown that the term ‘other status’ includes sexual orientation, illegitimacy, marital status, trade union membership, transsexual status and imprisonment. It can also be used to challenge discrimination on the basis of age or disability.

**Does the right cover** **indirect discrimination?**

The courts have also ruled that the human rights protection from discrimination includes indirect discrimination. This occurs when a rule or policy, supposedly applying to everyone equally, actually works to the disadvantage of one or more groups. For example, a requirement that all employees be over six feet tall may be indirect discrimination. Women and some disabled people will be disadvantaged and to be justified this would need to be a strict requirement for the job.

Using this right - example

A gay couple successfully used the anti-discrimination protection in the Act to receive the same treatment as a heterosexual couple in relation to the rules on the inheritance of the tenancy of a property.

**What the law says;**

Article 14: Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in the European Convention on Human Rights and the Human Rights Act shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

**Example case** - R (L and others) v Manchester City Council and another case [2001]

Manchester City Council paid lower allowances to foster carers who were family members, compared to carers who looked after children who were unrelated to them. Two families with foster children from their own families alleged that the rates were so inadequate as to be in conflict with the children’s welfare. They also argued that the rates were discriminatory; the council’s failure to base calculations on the families’ financial needs showed they had not considered the potential risk to Article 8 rights (right to respect for private and family life). The court held that Article 8 obliged the local authority to take ‘all appropriate positive steps’ to enable children to live with their families, unless their welfare was at risk. The payment of foster allowance fell within these positive duties and should not be done in a discriminatory manner. There had been a disproportionate difference in treatment on grounds of ‘family status’, which the council had failed to justify. This meant that the policy fell afoul of Article 8 and Article 14.

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**The Human Rights Act’s**

**1998**

**UK**

**Protocol 1, Article 1:**

Right to peaceful enjoyment of your property

Demeanour

Property can include things like land, houses, objects you own, shares, licences, leases, patents, money, pensions and certain types of welfare benefits. A public authority cannot take away your property, or place restrictions on its use, without very good reason.

This right applies to companies as well as individuals.

**Are there any restrictions to this right?**

There are some situations in which public authorities can take things you own or restrict the way you use them. This is only possible where the authority can show that its action is lawful and necessary for the public interest. If your property is taken away, you should be entitled to compensation.

The government must strike a fair balance between your interests as a property owner and the general interests of society as a whole.

This right does not affect the ability of public authorities to enforce taxes or fines.

Using this right – example

If a public authority plans to build a road over someone’s land, it must have laws in place to support this. There must also be a process in place to check that a fair balance has been struck between the public interest in building the road and the individual’s right to their land.

(Example taken from ‘Human rights, human lives: a guide to the Human Rights Act for public authorities.)

**What the law says;**

Protocol 1, Article 1: Protection of property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of the State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure payment of taxes or other contributions or penalties.

Example case - Howard v United Kingdom [1987]

A public authority wanted to use a compulsory purchase order to acquire a property for development. The European Court of Human Rights held that the question was whether the authority had struck a fair balance between the rights of the individual property owners and the rights of the community. One of the main factors in any such balance will be the availability of compensation reflecting the value of the property acquired by the authority.

(Case summary provided by the British Institute of Human Rights)

See the publication ‘Human rights, human lives: a guide to the Human Rights Act for public authorities’ for more examples and legal case studies that show how human rights work in practice.

**The Human Rights Act’s**

**1998**

**UK**

**Protocol 1, Article 2:**

Right to education

Demeanour

Parents also have a right to ensure that their religious and philosophical beliefs are respected during their children’s education.

**Are there any restrictions to this right?**

The right to education does not give you the right to learn whatever you want, wherever you want. The courts have ruled that the right to education relates to the education system that already exists. It does not require the government to provide or subsidise any specific type of education.

The government is allowed to regulate the way education is delivered. For example, it can pass laws making education compulsory or imposing health and safety requirements on schools. Schools are allowed to use admission policies so long as they are objective and reasonable.

Although parents have a right to ensure their religious or philosophical beliefs are respected during their children’s education, this is not an absolute right. As long as these beliefs are properly considered, an education authority can depart from them provided there are good reasons and it is done objectively, critically and caters for a diversity of beliefs and world views.

**What the law says;**

Protocol 1, Article 2: Right to education

No person shall be denied a right to an education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions.

**Example case** - R (Hounslow London Borough Council) v School Admissions Appeal Panel for Hounslow London Borough Council [2002]

The admissions policy of a primary school in West London prioritised children who lived in the school’s designated catchment area. This meant that some children who lived outside this area, but who had brothers or sisters attending the school, were not admitted because of the pressure on class sizes. A group of parents challenged this decision. The court held that the school’s admission policy did not violate the right to education. It emphasised that, where applications exceed the number of school places, admissions authorities have to use a fair process to make practical, objective decisions. Among other things, this means that each application must be properly considered on its merits before a final decision is made.

(Case summary provided by the British Institute of Human Rights)

See the publication ‘Human rights, human lives: a guide to the Human Rights Act for public authorities’ for more examples and legal case studies that show how human rights work in practice.

**The Human Rights Act’s**

**1998**

**UK**

**Protocol 1, Article 3:**

Right to participate in free elections

Demeanour

Protocol 1, Article 3 of the Human Rights Act requires the government to support your right to free expression by holding free elections at reasonable intervals. These elections must enable you to vote in secret.

**Are there any restrictions to this right?**

The right to free elections is absolute. This means it must never be restricted in any way.

However, the government can put some limits on the way elections are held. It can also decide what kind of electoral system to have – such as ‘first past the post’, as in UK general elections, or proportional representation.

Prisoners serving a custodial sentence in the UK do not have the right to vote. The European Court of Human Rights has ruled that a blanket ban on all serving prisoners is not compatible with Article 3 of Protocol 1, but that countries should have wide discretion on this matter and that prisoners denied the vote are not entitled to compensation.

These judgments do not directly affect UK law: Parliament would still have to decide whether and how to change the legislation on prisoner voting. A draft Bill was published in 2012 which gave three options: a ban for prisoners sentenced to four years or more; a ban for prisoners sentenced to more than six months; and continuation of the blanket ban. However, Parliament has not voted on the draft Bill and the Government has not announced any other plans to change the legislation covering the ban.

**What the law says;**

Protocol 1, Article 3: Right to free elections

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

**The Human Rights Act’s**

**1998**

**UK**

**Protocol 13, Article 1:**

Abolition of the death penalty

Demeanour