



The Rt Hon Harriet Harman MP
Chair of the Joint Committee on Human Rights
Committee Office
House of Commons
London
SW1A 0AA

1 October 2020

Dear Harriet,

HUMAN RIGHTS PROPOSALS

Thank you for your letter of 17 September regarding the Government's plans in a number of areas relating to human rights and administrative law.

The UK is committed to protecting and respecting human rights. We have a longstanding tradition of ensuring rights and liberties are protected domestically and of fulfilling our international human rights obligations. We have strong human rights protections within a comprehensive and well-established constitutional and legal system. The UK remains committed to the European Convention on Human Rights (ECHR) and will continue to abide fully by our obligations under it.

As set out in our Manifesto, the Government will look at the broader aspects of our constitution including the balance between the rights of individuals and effective government. This includes a commitment to updating the Human Rights Act 1998 (HRA). We will announce further details on an independent review into the operation of the HRA in due course.

Similarly, the 31 July launch of the Independent Review of Administrative Law delivers on our Manifesto commitment to ensure the judicial review process is not open to abuse or delay. The Independent Panel, chaired by Lord Faulks QC, is considering whether the right balance is being struck between the rights of citizens to challenge the executive and the need for efficient, effective government.

The independent Panel are considering a wide range of data and evidence, including relevant case law over the past thirty to forty years, in line with the Terms of Reference, which can be found on gov.uk here: <https://www.gov.uk/government/groups/independent-review-of-administrative-law>

The Panel launched their call for evidence on 7 September; this is open until 19 October and details on submitting evidence are available on the same gov.uk page. The Panel will report their findings, and options for reform, to Government before the end of the year.

The Government has introduced the Overseas Operations (Service Personnel and Veterans) Bill ('the Bill') to help tackle vexatious claims against our Armed Forces, to whom we owe a vast debt of gratitude. These measures will help to reduce the uncertainty faced by our Service personnel and veterans. None of the proposals included in the Bill will erode the rule of law or prevent Armed Forces personnel or the MOD being held to account. The proposals in the Bill do not undermine the UK's commitment to human rights and the ECHR. The Bill had its second reading in the House of Commons on 23 September 2020.

I can also confirm that the UK does not intend to 'opt out' of the ECHR. The Bill only compels governments to consider derogating from certain rights in the ECHR in relation to significant overseas military operations. Derogation is provided for under Article 15 of the ECHR and any decision to derogate in future would still need to meet the threshold set out in that Article. It is also not possible to derogate from all ECHR rights. Article 15 does not permit derogation from Article 2, right to life, except in respect of deaths resulting from lawful acts of war; Article 3, prohibition of torture; Article 4(1), prohibition of slavery; or Article 7, no punishment without law. Even if derogation under the ECHR were to take place in the future, our Service personnel will not be above the law, and must continue to comply with relevant domestic and international law, including international humanitarian law.

I appreciate the Committee's interest in our work in this area and assure you that I will keep you abreast of developments. I look forward to attending a session of the Committee soon to discuss human rights and justice issues with you.

A handwritten signature in black ink that reads "Robert Buckland". The signature is written in a cursive, slightly slanted style.

RT HON ROBERT BUCKLAND QC MP