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A British Bill is best for Rights – and should include old rights and new, says Politeia’s new study. Jonathan Fisher QC makes the case for a British Bill of Rights.

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The new Conservative government is set to replace the Human Rights Act with a British Bill of Rights. In Parliament, amongst the legal profession and in the country, a lively debate has opened.

In Politeia’s new study, *A British Bill of Rights: Protecting Freedom Under the Law*, Jonathan Fisher QC explains why the Human Rights Act 1998 has failed despite Britain’s rich common law tradition of individual rights and liberties. The British people do not trust the present legal arrangements under the Human Rights Act. As the author argues:

A domestic instrument which reflects Britain’s legal and historical heritage, culture and contemporary values will, if properly drafted, give the people of Britain a document in respect of which they can feel a sense of ownership and pride.

A British Bill will also halt the powers of European judges over British courts – and do so without Britain having to leave the European Convention on Human Rights.

What should a British Bill of Rights look like? It should, says the author, incorporate those rights already guaranteed by law under the European Convention but also ‘set out in plain English a list of long established British rights, such as, for example:

- the right of politicians to debate freely in Parliament
- the sovereignty of Parliament
- a person’s right to apply for a writ of release (habeas corpus)
- a person’s right to silence
- a person’s right not to be forced to incriminate himself
- a person’s right to trial by jury
- a jury’s right to reach its verdict independently of Government or judicial influence
- a right to open justice.’

In fact a British Bill could go far further. It could recognise new civil liberty rights such as a right against the imposition of excessive administrative penalties. And, especially topical, it could recognise a right to privacy over personal data.

As the author concludes, the government has received a mandate to introduce a British Bill of Rights and repeal the Human Rights Act 1998. There is a strong case for ‘a bespoke British Bill ... which codifies the fundamental rights and liberties won for the British people over many centuries.’

* **Jonathan Fisher QC** is a practising barrister at Devereux Chambers in the Temple and a Visiting Professor in Practice at the London School of Economics. He served as one of the Commissioners on the Bill of Rights Commission in 2011-2012.

The British Bill of Rights: Protecting Freedom Under the Law is published by Politeia, 33 Catherine Place, London, SW1E 6DY.

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