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If Human Rights Act is Scrapped, British Bill of Rights Must Give Same Protection!

Dinah Rose QC makes the case in *What's the Point of the Human Rights Act?*

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As Britain's political parties prepare for the 2015 general election, the future of the Human Rights Act 1998 is in doubt. The Conservative Party intends to replace it with a British bill of rights, if returned to power. Though the proposal is popular, it has also been criticised across the political parties.

In *What's the Point of the Human Rights Act?*, Dinah Rose QC, examines the role played in the English constitution by both the European Convention on Human Rights and the Human Rights Act. The author, one of Britain's leading barristers, explains that English common law protected and developed fundamental rights long before the Human Rights Act. Indeed, common law goes further in protecting such rights - for example in the right to a fair trial.

Nonetheless, the Human Rights Act plays a vital role in the English constitution. It offers, says the author, 'a constitutional framework for the enforcement of rights which would otherwise be lacking'. Indeed parliament allows the courts different options when considering legislation under the act. Although many critics suggest that this can undermine parliament's sovereignty, Ms Rose explains that the courts only use powers allowed to them by parliament itself.

Certainly the Human Rights Act has been a 'public relations disaster', says the author. Although it may be out of favour with the media, it is an effective mechanism for protecting the rights of the most vulnerable in society. These may not appeal to the voter, but says Rose, 'even and perhaps particularly those whose causes are unpopular, like prisoners and immigrants, need protection against the abuse of state power.'

If the British tradition which protects fundamental rights is to be sustained and a British bill of rights introduced, the task will be to ensure the same protection of rights as under the Human Rights Act. Rose suggests that the courts must refocus on existing common law rights. Parliament too must re-learn to cherish individual liberties and respect for the court system. Given that relatively few politicians have any legal training, they might start their careers with 'a short but authoritative course in the constitution and the legal system'.

Above all, given that the lord chancellor no longer needs to be a senior lawyer or judge, the government of the day must have access to authoritative and independent external legal advice.

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