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## Human rights in the G7

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**Public law analysis: How does the UK fare on human rights in comparison to the other G7 nations? Takumi Shibaïke, an expert on human rights governance and government compliance with human rights in the G7/G8 groups from the University of Toronto, takes a look at the human rights regimes of the G7 nations and explains what makes the UK unique in its approach.**

### **How are human rights enforced in each G7 nation? Is there a specific legislation in place?**

At the macro level, human rights are well protected in all G7 nations. According to Freedom House, a global NGO monitoring the levels of human rights protection, only Italy and Japan have received a score of two in either the political rights or civil rights component (one is the best, seven is the worst) in the past decade.

Enforcement of human rights depends much on the norms shared among the mass public, but ultimately, one needs to go to the domestic court if an individual seeks remedies for human rights violations. International mechanisms can be used only when the domestic judicial process is completed or fails to function. Bringing a case to the court is, however, often costly. In order to facilitate enforcement, many countries established national human rights institutions (NHRIs). The initiative to establish NHRIs was led by the UN Office of the High Commissioner for Human Rights, particularly the Paris Principles, first adopted in 1992. A number of national legislatures followed the Paris Principles, and today more than 100 nations have NHRIs. However, Japan remains as the only country among the G7 that still does not have an NHRI.

### **What are the main international or regional treaties that each G7 nation is party to? How does their compliance compare with the UK's compliance record?**

Except for the US, all G7 nations are parties to what is commonly referred to as the International Bill of Human Rights, which consists of the Declaration of Human Rights in 1948, the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). The US has signed but never ratified the ICESCR. The same pattern appears in other UN human rights treaties. The US has signed but never ratified the following treaties: the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of Persons with Disabilities.

For the two optional protocols to the ICCPR, the G7 nations are divided. The US, the UK and Japan have not signed the Optional Protocol to the ICCPR, which allows the Human Rights Committee, a treaty body monitoring compliance with the ICCPR, to hear claims of human rights (civil and political rights) violations made by individuals of the state parties. The Committee's views are not binding, but the state parties are expected to act accordingly. Further, the US and Japan have not signed the second optional protocol to the ICCPR, which bans capital punishment for ordinary crimes.

For the optional protocol to the ICESCR, which entered into force in May 2013, only France and Italy are state parties. Like the optional protocol to the ICCPR, the optional protocol to the ICESCR allows individuals to submit claims of human rights violations to the Committee on Economic, Social, and Cultural Rights.

For regional treaties, the UK, France, Germany and Italy are parties to the European Convention on Human Rights (ECHR). The US, Canada and Japan are not parties to any regional human rights treaty.

The UK was, for a long time, resistant to give up its judicial sovereignty to a third party. Conventionally, there is no hierarchy among laws in the UK--when there is any incongruence between laws, a later law prevails over an earlier law either explicitly or implicitly. Introducing an international law into the domestic legal system was believed to challenge such legal norms rather unique to the UK. In 1998, however, the UK enacted the Human Rights Act 1998 (HRA 1998), which incorporated ECHR into the domestic legal system. Based on HRA 1998, the court is now able to issue a declaration of incompatibility if it finds a domestic law being incongruent with ECHR. Such declarations, however, cannot nullify any law--it is the Parliament that rectifies or nullifies incompatible domestic laws. On the other hand, the ICCPR is not incorporated into the domestic legal system. In fact, the latest concluding observation issued by the Human Rights Committee recommends the UK to consider such incorporation with priority.

### **Are there any specific human rights issues which the government of each G7 nation has been a particular proponent of, or had difficulties with?**

All G7 nations protect human rights quite well, but there are a few divisive issues. First, the US and Japan practice capital punishment, including execution, while other G7 nations are abolitionist for all crimes, including military-related crimes. Capital punishment is widely recognised as a human rights violation, and the treatment of death-row inmates has also been a serious concern.

Second, same-sex marriage is not legally recognised in several US states, Germany, Italy and Japan. Germany, though, grants a status of registered life partnership to same-sex couples, which is a legal status similar to marriage.

Third, while gender equality is protected in the constitution or laws in all G7 nations, in practice, there are wide differences. According to the Global Gender Gap, a gender inequality index published by the World Economic Forum, Germany (12), France (16), Canada (19) and the US (20) ranked within the top 20 in 2014. The UK ranked 26, Italy 69 and Japan 104. Contrary to the first two divisive issues, gender equality cannot be warranted by the government alone--the public norms must change, which usually takes a long time.

The G7 nations support fundamental human rights and try to encourage compliance with human rights norms overseas. For the freedom of religion or belief, the US and Canada have governmental offices solely dedicated to protect religious freedom (US: the Office of International Religious Freedom and the Commission on International Religious Freedom, Canada: the Office of Religious Freedom).

European countries often work with the EU to promote fundamental human rights--the EU's European Instrument for Democracy and Human Rights funds overseas projects that seek to improve local human rights practices. The UK's Foreign and Commonwealth Office has been running the Human Rights and Democracy Programme since 2013, which funds NGOs to promote human rights.

The Foreign and Commonwealth Office publishes an annual human rights report on 'countries of concern'. The State Department of the United States also publishes annual human rights reports on all countries, including the G7 nations, such as:

- o the Human Rights Report
- o the International Religious Freedom Report, and
- o the Trafficking in Persons Report

Recent research suggests that the Trafficking in Person Report increases the likelihood of criminalisation of human trafficking in the countries that are named and shamed in the report (see Politics by Number: Indicators as Social Pressure in International Relations).

The G7 nations increasingly work with NGOs to promote human rights overseas. However, it must be noted that working with NGOs does not always produce favourable outcomes. Only a small number of renowned NGOs, such as Amnesty International and Human Rights Watch, enjoy the abundance of donation. Others must struggle to secure funding, and for them, governmental funding--such as one that the G7 nations typically offer - is an attractive source of capital. Research suggests, however, that short-term funding

contracts tend to create an environment where NGOs must compete for funding rather than co-operating with each other, thereby failing to achieve their original objectives (see *The NGO Scramble: Organisational Insecurity and the Political Economy of Transnational Action*).

### **What are the challenges faced by each government if they are found to have infringed rights protected by their relevant legislation?**

If the government infringes on human rights in the G7 countries, such violations are likely to be in the form of law. Extralegal activities by the government of the G7 nations are increasingly rare. However, it should be noted that there are alleged cases of torture, killing and disappearance by the US and many cases of maltreatment of undocumented immigrants by the governments of the G7 nations.

If one's human rights are violated under the jurisdictions of the US, Canada, and Japan, domestic litigation is the only way to seek effective remedies. The Human Rights Committee based on the ICCPR and other treaty bodies issue 'recommendations' in their periodic report to the state parties. However, these 'recommendations' are commonly recognised as non-binding prescriptions.

In Europe (the UK, Germany, France, Italy among the G7 nations), there is another legal mechanism to protect human rights. If domestic litigation fails to protect one's individual human rights, anyone (one need not be a European citizen) under the jurisdiction of the European Court of Human Rights (ECtHR) can bring a case to the ECtHR. Judgments by the ECtHR are binding. Further, recent research suggests that although ECtHR judgments are binding only to the cases to which they are delivered, judgments may nevertheless influence policies of other European member states (see *International Courts as Agents of Legal Change: Evidence from LGBT Rights in Europe*).

### **How does the human rights enforcement of the other G7 nations compare with the UK?**

The UK, as a member of the rights-friendly EU, is doing relatively well among the G7 nations. The Foreign and Commonwealth Office runs the Human Rights and Democracy Programme to fund overseas projects and publishes an annual report on countries whose human rights practices are worrisome. The UK abolished capital punishment in 1965 and has allowed same-sex marriage since 2014.

According to the World Economic Forum, gender equality is somewhat inferior to the peer G7 nations, although Italy and Japan are far worse. This is largely due to a shorter life expectancy of women, a lower rate of female ministers and a wide income gap.

While the UK is traditionally reluctant to allocate its judicial sovereignty to a third party, certain progress is taking place. In *R v Secretary of State for Transport, ex p Factortame Ltd* [1989] 2 CMLR 353 the court ruled that domestic laws do not implicitly prevail over EU laws unless the Parliament explicitly states to do so. Further, the UK enacted the Human Rights Act 1998, which integrated ECHR to the domestic legal system.

On the other hand, the UK's insistence on sovereignty continues. It has never ratified Protocol 4 of ECHR, which warrants, among other things, the freedom of movement. The Parliament also enacted the European Union Act 2011 (EUA 2011), requiring a referendum if the power of the EU further enlarges. Moreover, EUA 2011, art 18 stipulates that it is ultimately the Parliament that decides whether or not the UK accepts EU laws. Finally, the UK has not signed the optional protocols to the ICCPR or the ICESCR (the second optional protocol to the ICCPR has been ratified).

The UK's reluctance to give up its sovereignty does not necessarily mean that the government respects human rights less than other European nations do. The UK is an established democracy with many--yet not necessarily bad--idiosyncrasies in its political operation, and thus following external rules is often costly. Surely, every democracy has such idiosyncrasies, but for the UK, a nation with foreseeable stability in the future, there is little incentive to constrain itself with externally imposed rules (see *The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe*).

The reluctance of the US to ratify international human rights treaties can be explained in similar terms. Otherwise, one cannot explain why the US refused to ratify the ICCPR until 1992, that is, sixteen years from the entry into force.

It must be noted, however, there are serious allegations of human rights violations in the G7 nations. Taking a close look at recent periodic reports, especially concluding observations, by the Human Rights Committee and the Committee on Economic, Social, and Cultural Rights should help one to understand what kind of change needs to be made--not only ratification of international human rights treaties, but also changes in the domestic legal system and public norms. Country-specific reports for all UN treaties can be found here.

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