



## **The disapplication of human rights provisions in the Victims and Prisoners Bill – the impact on children in prison**

6 February 2024

The current Lord Chancellor has made it clear scrapping the Human Rights Act 1998 is not on his agenda and nor was it in the heavy legislative programme set out in the King's speech on 7 November 2023. Yet, one aspect of the original Victims and Prisoners Bill crafted by his predecessor that remains in place will have that precise effect for prisoners. The clauses in question are 49 to 54 of the Bill due to be debated in the Lords this month.

The clauses prevent prisoners from making use of s3 of the Human Rights Act 1998 which allows the courts to read law in such a way as to make it compatible with human rights.

These clauses depart from the fundamental principle of human rights law that rights are universal and apply to everyone, equally. It is also surely a sign that we have lost our moral compass given Churchill's famous words that "the treatment of crime and criminals mark and measure the stored-up strength of a nation."

The clause will, quite literally, throw the baby out with the bath water. There are now less than 500 children in prison but the catalogue of human rights abuses they have suffered is vast. They have been unlawfully restrained, which has been deemed a breach of Article 3 which protects us from inhuman and degrading treatment (*R(C) v SSJ* [2009] QB 657). They have been kept in their cells without access to the minimum requirements of 15 hours of education a week (*R(AB) v SSJ* [2017] 4 WLR 101.). They have been denied statutory support for their welfare in prison (*R (the Howard League for Penal Reform v SSHD* [2002] EWHC 2497 (Admin)).

Latest data by the Youth Justice Board, published in January 2024, shows that the year ending March 2023, the rate of incidents of self-harm in the youth secure estate increased by 32% in the last year to around 380 incidents per 100.<sup>1</sup>

There can be no moral justification for disapplying human rights to people in prison: given the vulnerabilities of this group the unintended consequences could be enormous.

### **About the NAYJ**

The NAYJ is the only individual member organisation within England and Wales which campaigns exclusively for the rights of and justice for children in trouble with the law. It seeks to promote the welfare of children in the youth justice system in England and Wales, and to advocate for child-friendly responses where children are suspected of infringing the law.

### **Further information**

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<sup>1</sup> <https://www.gov.uk/government/statistics/youth-justice-statistics-2022-to-2023/youth-justice-statistics-2022-to-2023-accessible-version>