

# **Rights and Responsibilities in the New Democracy**

by

Rt Hon. Jack Straw MP  
Home Secretary

**The Constitution Unit  
Annual Lecture 1999**

27 October 1999

## Introduction

I want to speak today about the new relationship we are building between the citizen and the state. About rights and responsibilities, and about public confidence in the key institutions of the state.

Just over three years ago – as Opposition Home Secretary – I gave a lecture, here at Church House, for Charter 88. It was about confidence, or lack of it, in the British system of government.

I said that public confidence in the British system of government was dangerously low. And I pointed to the cynicism increasingly shown by the public towards politicians and the whole political process.

My theme was the need for reform. Fundamental reform of the relationship between the individual citizen and the state. Constitutional reform, in short.

I tried not to use the words “Constitutional reform” too much in my speech. For some otherwise perfectly reasonable and well-educated people, the words “constitutional reform” seem to produce what you get from most PCs when you press down the “control”, “alt” and “delete” keys together.

Complete blankness.

And a loss of your previous efforts.

Sad, isn't it?

## Vision

Constitutional reform is not – or shouldn't be – an end in itself. What we are interested in is making a better country for everyone to live in.

Where everyone has a real stake in their community. Knows that they have a real stake - and relies on it.

Where people are genuinely empowered – and genuinely responsible.

Where every individual knows that he or she is valued for his or her unique contribution and for his or her unique human dignity.

A modern, successful, society which is enriched by different cultures, different faiths. But a society where there is also unity. And confidence.

A shared understanding about what is fundamentally right and wrong:

about the duties we owe to each other and the wider community.

and a willingness to fulfill those duties.

That's what we must have if we are to get and maintain the kind of society I have just described.

We are talking about a vision -

a vision of a new relationship between the citizen and the state -

a new vision of society.

It's hard for any Labour politician who lived through the 1980s to utter the word "society" without remembering the remark of Lady Thatcher - as she then wasn't - that there is no such thing as society.

But, grotesque though that idea was, it did help us focus clearly on what was needed and why.

### Strategy

So, three years ago, here in Church House, I proposed a strategy. A list of six concrete changes that we could and should make to help build the modern democratic society we wanted to see:

- ◆ Devolution
- ◆ Reform of local government - and with empowerment of local authorities and the police to tackle things like crime and anti-social behaviour that make a prison of ordinary people's lives
- ◆ Incorporation of the ECHR
- ◆ Freedom of Information
- ◆ Reform of Parliament, especially the House of Lords, and
- ◆ New laws to clean up politics and establish an independent electoral commission.

A connected series of reforms, to help make our vision a reality.

### Achievement

I wonder how many people listening to that list then believed that I would be able to come back just three years later - and show you that every one of the items on my list is coming true?

It's the biggest programme of democratic constitutional reform ever seen in this country.

But, as I said a moment ago, these reforms were never about constitutional reform for its own sake.

Or modernising for the sake of it.

They are the benchmarks of a new constitutional relationship between the citizen and the state.

I use the word "citizen" here in an inclusive sense to mean all those who are making their lives in this country.

Aims and philosophy

So why did we want to create a new relationship between the citizen and the state?

Two reasons.

First, because we wanted to change the culture of a society where people have been encouraged to take what they can for themselves without contributing to the common good.

Some people trace the roots of that culture of selfishness back to the so-called "me" generation of the 1960s. I think that's a fair point.

But part of the poison also came from the Conservatives during the 1980s.

They kept on telling us that the state and all its works was a bad thing; that the state was inimical to personal freedom and rights; that the only thing that mattered was individuals and their families.

The relationship between the individual and the group, and the relationship between the individual and the state, just did not seem to figure.

Yet it is those very relationships which successive political philosophers have seen as vital to producing the kind of society most people in most places want to live in.

It is only in the context of those relationships that the idea of individual rights really makes sense.

Rights don't exist in a vacuum.

The Conservatives hadn't grasped the simple point made over 200 years ago by Tom Paine, that, and I quote:

*"Whatever is my right as a man is also the right of another, and it becomes my duty to guarantee as well as to possess."*

[from the Rights of Man, 1791]

As Tom Paine pointed out, a Declaration of Rights is, by reciprocity, also a Declaration of Duties.

The two concepts are, to borrow a phrase, "joined up".

Rights go with responsibilities.

And together, they can unite

- ◆ citizens
- ◆ their communities
- ◆ the state

in mutual confidence and dependence.

The second reason for wanting to create a new relationship between the citizen and the state comes from the fact that the global economy and IT are transforming our society.

The transformation is inevitable, liberating and welcome. We embrace it because it will enhance our prosperity.

But it comes at a price.

Because the global economy and IT tend to weaken some aspects of the civic culture. And they can also bring atomisation, new inequalities and unfairness.

How will the changes now being made, and which I outlined three years ago, help to strengthen rights and responsibilities?

How will they help people regain control over their own lives? How will they create a modern concept of citizenship relevant to the twenty-first century?

### Human Rights Act

Let me start with the Human Rights Act, which will incorporate the ECHR into UK law.

This will give us, for the first time, alongside the rule of law – which we have long had – constitutional guarantees to help make sure that the law in this country will uphold and reflect certain fundamental principles.

We did not agree with John Major that the British did not need a Human Rights Act because, and I quote, “they are free already”.

In saying this he was reflecting Hobbes who first came up with the trite idea that the Briton finds his freedom in the silence of the law. He can do what he likes unless the law says he cannot.

That’s great until you find out that the doctrine has often worked even better for public authorities.

And that’s bad news unless you can be 100% sure that your public authority will always be on your side.

The Human Rights Act changes that.

It confirms an ethical bottom line for public authorities. It provides a fairness guarantee, if you like, for the citizen.

The Human Rights Act allows the citizen to say, "this far and no further" in relation to fundamental human rights.

And the Act gives the courts the duty to back the citizen up.

All the way to the point where our sovereign democratic parliament deliberately and consciously produces a different answer.

This new bottom line, a fairness guarantee as I have called it, should help build greater confidence in our public authorities.

And that's a vital part of our strategy for getting more public participation and rebuilding the society we want to see.

But the Human Rights Act does much more than allowing people to sue and stop public authorities if they violate basic rights.

It defines and legitimises responsibilities.

How does it do that?

The Human Rights Act defines responsibilities for the simple reason that it bases itself on the ECHR. And the ECHR, almost uniquely amongst human rights instruments balances and accompanies nearly everything it says about individual rights with detailed statements of the limitations that can be placed on those rights.

Balances and limitations which reflect the rights of others and of the wider community.

And the balances and limitations in the ECHR amount to a statement of duties and responsibilities.

It's the Tom Paine point, written out in full.

Rights are the headings you find if you glance through the ECHR. But rights and responsibilities are what you discover if you study the Convention properly.

Rights and responsibilities are the subtext of the ECHR.

I said a moment ago that the ECHR legitimises responsibilities. The point here is simply that the responsibilities and duties in the ECHR can be shown to flow directly from what is needed to maintain a society based on modern, pluralistic democratic values.

So you get your duties from your rights. And your rights are based on considerations of common humanity.

There's a new system of ethical values here. It's a system of values which everyone can sign up to. Unifying, inclusive and based on common humanity

### Freedom of Information

A word or two about the relevance of Freedom of Information.

The right to information held by the state in its various forms isn't to be found in the ECHR.

But we want to strengthen people's legal rights in this area as well.

We want to build a culture of openness in the public sector.

We want to break down the barriers that may make the individual see the state in terms of Kafka's Castle.

We want to empower public servants at all levels to think positively about what information is of interest to the public and could be released without damaging the business in hand.

Public services are already more open than they used to be. Departments publish much more information about their processes than in the past.

Typically, the Conservatives shied away from giving people a new legal right.

They offered a non-statutory Code of Practice on Open Government. But a legal right – no.

We have tackled this issue and secured a proper balance.

Every organisation has decision-making processes which it could not carry out effectively in public.

The right to know cannot be unfettered.

There are other rights to be taken into account – confidentiality and privacy, to name two.

The Government has a duty to recognise these tensions and to strike a balance.

Experience in other countries shows that the change of culture which legislation brings about counts for as much if not more than the details of FOI legislation.

We are determined to bring about the change of culture. Reinforcing the notion that public services are there to provide a service. And that citizens can and must have a relationship with them which reflects mutual respect.

Taken together, the Human Rights Act and the proposed FOI Bill, will move us from the notion of "the ruler and the ruled".

It marks the end of the “citizen as subject” idea which goes back to the earliest forms of enslavement.

It puts in place a modern dynamic relationship between the individual citizen and the state.

The roots of this are not shallow. They go back deep into Britain’s intellectual traditions. We take from the social contract of Locke, the ideas for self-realisation of the individual articulated by J S Mill and the jurisprudential citizenship concepts of Rawls and Selbourne. We are also Burkean in the sense that our aim is to bring about organic change because we are building on what is best.

We reject the old shibboleths of Marxism or the forces of conservatism – the unfettered market and narrow nationalism.

The third way is not a tight ideology, but a broad philosophical approach – a thrust of ideas which synthesises liberal concepts of freedom rights and liberty with concepts of equality and collective values.

#### Devolution / local government / party funding

Our reforms of local government flow from this approach.

- ◆ Devolution to Scotland, Wales and Northern Ireland
- ◆ The creation of the Greater London Authority
- ◆ New arrangements for elected mayors, in London and elsewhere
- ◆ New ways of working in local government
- ◆ Giving local authorities and the police power to tackle crime and anti-social behaviour

These are all about bringing power closer to people.

We need to do that if we want to expect people to have a sense of responsibility for public services. It doesn’t happen automatically. They won’t unless they share in the key decisions about the what, the why and the “how much” of those services.

Is it any wonder, given what went on in the 1980s, that there is no automatic sense, especially by younger people that they have a responsibility to be involved in the life and decision-making of their communities?

And no wonder that, typically, many do not bother on election day. What’s the point in having a voice if “they” are talking a different language – and if what you say doesn’t make a difference anyway?

Its not just having a say at election time.

Involvement – or lack of it – in the local democratic process is a real problem.

We are bent on revitalising democracy. We are looking at the crucial links between individuals, communities and the state: are they working?

Could they be made to work better?

What would help this process?

These links were largely ignored under the Conservatives.

Is it any wonder that some have atrophied? -  
that many people – particularly young people – do not feel that they have a responsibility to get involved?;  
that people's natural tendency to retreat into self-interest has been reinforced?

We are looking on the Government's side of the ledger. We believe that elected mayors can revive interest in local democracy and strengthen people's sense that they can make a difference through voting.

We are looking for more efficient processes for reaching decisions and translating them into action – in Parliament itself and in local councils.

We are cleaning up politics through new transparent procedures for regulating the funding of political parties. Politicians must lead by example.

And we are establishing an independent Electoral Commission - with real powers and a budget - to help strengthen the modern concept of citizenship as well as regulate party funding. I will return to that issue later on.

### Responsibilities

That's the Government's side of the bargain we want to see struck. The credit we're trying to establish, if you like.

We are bringing about a strengthening of citizens' rights – to question, to know, to participate in decision-taking. To be assured of fairness and respect.

What about responsibilities – the other side, if you like, of the ledger?

A vibrant, modern democracy requires people to exercise their responsibilities in a number of ways.

The reforms I have outlined should help break down cynicism and lack of confidence in institutions of the state or in the political process. But we need to go wider than that.

Let's look at a practical example of what else we need to tackle.

A lot of people seem to believe that their right to freedom of expression as they would see it, to play their music loudly, far outweighs their neighbour's right to the peaceful enjoyment of his or her property.

They recognise no responsibility at all not to disturb their communities.

Do the rights to liberty and freedom of expression entitle people to brawl in the streets of our towns every Friday and Saturday night, shouting obscenities all the while? Never mind the intimidation, fear and just general anti-social nuisance caused to the community.

This is the legacy of selfish, dutiless rights.

Rights without responsibilities.

They form no part of any coherent moral or social order.

Of course, it's not difficult to find social and economic reasons, as well as political and philosophical ones, for the selfish and irresponsible behaviour.

But we are now helping communities tackle those social and economic problems.

At the core of citizenship are a bundle of common public goods to which government needs to ensure access.

They include access of education, health, a minimum income and civil and political rights.

We are improving the standard and enlarging the pool of public goods.

And communities naturally want to know what they are getting in return.

Let's start with the individual's responsibility to use the educational opportunities on offer.

To equip himself or herself for the job market.

To find a job which will provide money and a sense of self-worth.

Not always easy.

But, again, Government is helping – standards in schools are rising, the New Deal is offering real opportunities where there were few before.

We are investing in education and social services.

The minimum wage.

The working families tax credit.

These changes form part of a package to enable responsible citizens to succeed as part of a self-confident and outward-looking country.

In return for action to deal with unemployment, to tackle these problems, can't the community expect more responsible behaviour? Should not we now be less tolerant of disorder on the streets and all the other anti-social behaviour which so undermines community life?

### Education and the Electoral Commission

But good citizenship, like everything else, needs to be learned. For the first time education for citizenship will be part of the formal school curriculum.

It will develop:

Social and moral responsibility – learning from an early age the value of respect, tolerance and co-operation;

Community involvement – becoming helpfully involved in the life of their schools and local communities; and

Political literacy – acquiring the knowledge, confidence, skills and attributes to play a full part as informed citizens.

Education for citizenship will include learning about human rights and responsibilities.

It will also include learning about key institutions of state which play a defining role in society – Parliament, Government, the courts and the police.

Everyone needs to know about these things if they are to have confidence in our institutions and the wherewithal to exercise their rights and responsibilities.

Above all, education for citizenship will help to foster a culture which values diversity and promotes respect and mutual understanding.

This is essential if we are to build a more inclusive society and a revitalised, modern democracy.

There are formal and informal sides to this.

Key institutions of state: Government, Courts, the Police, play a defining role in society.

Everyone needs some basic information about these institutions if they are to have confidence in them, and exercise their responsibilities.

Citizenship - including learning about human rights and responsibilities - is to be embedded in the national curriculum.

But people at all stages of life need to develop their understanding.

The Electoral Commission will have a duty - and a budget - to promote voter education.

Not just in the narrow sense, of where to vote and how to fill in a ballot paper.

But in the broader sense of the systems of government which underpin a democratic society.

The Electoral Commission will be free from any taint of party political bias.

So it will be able to encourage democratic participation without any suggestion that it is simply helping the government of the day to win the next general election.

These are important new developments.

I believe that they will help inform and energise the democratic process. They will give ordinary people more confidence in it.

### Volunteering

We also need to look at other more practical proactive ideas for promoting the values of citizenship.

There are two sides to this.

First we need to look at voluntary activity. It brings people together and helps create a sense of citizenship that is often missing from our communities today.

People develop respect for one another and for society as a whole.

They feel worthy of respect.

How does the Citizenship Foundation put it?

“Healthy democracies need well-informed citizens who take an active interest in their community ... who value themselves and others and are aware of the contribution they can make to society.”

We are committed to supporting and promoting this kind of practical, active citizenship.

Our plans for community involvement in education for citizenship in schools and our Millennium Volunteers programme demonstrate this. We want more people to get involved and to channel their enthusiasm in productive and satisfying ways.

A working group under the chairmanship of Lord Warner is already taking this work forward. A five-year strategy to increase involvement in community life has been developed.

It should be published very shortly.

There's another big project there, which will really help improve this country.

I think that Lord Warner's report will make very interesting reading indeed.

### Family policy

I want to say something, too, about families.

Individuals have children. Most of us are part of a family.

Eleanor Roosevelt once made a wise observation about the meaning of human rights in this context.

She referred to the grand talk you hear about the geographical sources of international rights – Geneva, New York, Strasbourg, the Hague, *et cetera*.

She pointed out that the real origin of rights and responsibilities is far too close and far too small to be on any map.

In the end our success as individuals depends substantially on our relationship with others.

Rights and responsibilities start at home.

The Government recognises that family life makes the bricks from which our society, and our country are built.

“*Supporting Families*” – the first ever Government consultation paper on family policy made it clear that we are not in the business of telling people how to live their lives.

But we do see a role for Government in supporting parents and family life.

The £2 million we have given to the new National Family and Parenting Institution will greatly help this work.

They are working on down-to-earth, pragmatic policies, based on what works for parents.

There is another £8 million in total to other voluntary organisations which support families and parenting.

I am convinced – all the evidence from research backs it up – that supporting families with children in their early years is vitally important for the future.

In the longer term, it will help bring about the society we all want to see.

### Valuing citizenship

Finally, I think we can and should do more now as a country to value citizenship in its widest sense.

I gave a lecture in Liverpool earlier this year when I said as much. I asked for ideas. I floated one of my own – welcoming ceremonies for new British citizens.

My point was that being a citizen involves much more than just having a piece of paper.

That we should be doing more to value everyone who takes on the rights and responsibilities of citizenship.

Whether by birth or choice.

We should also remember those who do not opt for British nationality but who nevertheless play a full part in the culture of civic rights and responsibilities I've been talking about.

I repeat today the invitation I made then for suggestions.

### Peroration

We need to build a culture of rights and responsibilities. That is what our Human Rights Act is all about.

When the Human Rights Act was going through Parliament, I referred several times to building a culture of rights and responsibilities.

Some people misheard me.

They didn't hear the word "responsibilities". They just heard the "rights" bit.

They thought I was making some kind of Government pledge to mint new rights.

The Human Rights Act isn't about minting new rights in any case. We have had the ECHR for 50 years.

Building true human rights means much more than legal rights you can enforce in UK courts.

It means learning to understand and accept responsibilities and the rights of others in the community.

It means a greater confidence in the fairness of our political institutions.

It means a shared moral language for resolving clashes of rights.

And it means involving citizens in democratic decision making in their communities.

It all adds up to good citizenship.