

## TAXATION, HUMAN RIGHTS AND THE FAMILY

### Chapter for inclusion in the volume of essays in honour of Professor John Tiley

*“Is it really worth having all this fuss and bother about the Human Rights Bill? Over the years the Convention has been interpreted to require United Kingdom courts to change their practices in various ways at the personal level, but what about protecting a person from an unjustified demand for tax?”<sup>1</sup>*

In the realm of taxation, has the incorporation of the European Convention on Human Rights<sup>2</sup> (hereafter, “the Convention”) into United Kingdom domestic law by the Human Rights Act 1998 been all “fuss and bother”? Now that almost ten years have passed since the 1998 Act, what answer should one give to the question posed by Professor Tiley in 1998?<sup>3</sup>

This short chapter cannot possibly seek to assess the impact of the European Convention on Human Rights on all aspects of the United Kingdom taxation system<sup>4</sup>.

---

<sup>1</sup> Tiley, J: “Human Rights and Taxpayers” [1998] C.L.J. 269 – 273 at 269. This quotation is taken from the opening of a case note on the Building Societies Case [1997] STC 1466; (1998) 25 E.H.R.R. 127 (Decision of the European Court of Human Rights of 23<sup>rd</sup> October 1997). The case note concludes as follows:- “What lessons are to be learnt? The first must be that while the European Court of Human Rights is a tribunal to which tax-related issues can properly go, there is strong resistance to doing anything which might obstruct the fiscal intentions of the contracting States... The 1997 case shows that the Court of Strasbourg will not encourage them [the judges] to hasty action, but if political controls are ineffective in this country, why can we not look to the judges for protection? Is this not what the Convention is meant to be about?”

<sup>2</sup> To give the Convention its full title, it is the “Convention for the Protection of Human Rights and Fundamental Freedoms”, signed at Rome on 4<sup>th</sup> November 1950 (ETS No 5).

<sup>3</sup> The author has had the pleasure of leading discussion groups with Professor Tiley on Taxation and Human Rights as part of the Cambridge LLM over the past several years. He would also like to pay particular tribute to Professor Tiley’s contribution to the academic discipline of tax law, and to the fact that Professor Tiley first introduced him to the study of tax law in the Cambridge Tax Policy Seminar in 1977-78.

<sup>4</sup> For a more general review of the impact of the Convention on tax matters, including a review of the case law of the European Court of Human Rights, see Baker, P: “Taxation and the European Convention on Human Rights” [2000] B.T.R. 211-377.

Rather, this chapter seeks to examine only a narrow area: that is the impact of the Convention on the taxation of the family or, more correctly, how the Convention has been applied in tax cases involving personal and family status before the European Court of Human Rights. Taxation and the family is, of course, a particular area of interest of Professor Tiley<sup>5</sup>, and, as will be seen below, some of his comments on the discriminatory nature of UK tax provisions have proved to be quite prophetic.

The primary focus of this chapter, therefore, is on challenges which have been brought to certain provisions of United Kingdom and other countries' tax laws involving issues of personal and family status before the European Court of Human Rights in Strasbourg. The chapter will seek to show that, though the overall results may have been relatively meagre, it has been worth all the fuss and bother about the Human Rights Act.

### *The Bases in the Convention for Challenging Tax Rules Based upon Personal Status*

By way of background, it is worth reminding ourselves that there are three principal provisions in the Convention which may be relevant to taxation rules where personal or family status is a factor in the rule. These are the Articles of the Convention relating to: the prohibition of discrimination, the right to respect for private and family life, and the right to marry.

Article 14 of the Convention states as follows:-

---

<sup>5</sup> See, for example, his recent article: Tiley, J: "Tax, Marriage and the Family" [2006] C.L.J. 289-300.

***“Prohibition of Discrimination***

*The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”.*

This non-discrimination provision is a “non-free-standing” provision, which on its terms relates only to discrimination in the enjoyment of the rights and freedoms contained in the Convention. It is necessary, therefore, for a claimant to base his or her claim on Article 14 in association with another substantive provision of the Convention. In the field of taxation, it is now well established that discriminatory tax provisions can be challenged on the basis of a combination of Article 14 together with Article 1 of the First Protocol, which secures the protection of property<sup>6</sup>. The discriminatory challenges are not restricted however to the specific statuses mentioned in Article 14, which includes discrimination on grounds of sex, race, birth “or other status” and would therefore embrace discrimination on any ground related to personal status.

Article 8 of the Convention provides as follows:-

***“Right to respect for private and family life***

*1. Everyone has the right to respect for his private and family life, his home and his correspondence.”*

Article 8 introduces a qualified right, where the infringement may be justified by the government concerned on the grounds contained in Article 8, paragraph 2. In the taxation field, Article 8 has primarily been raised in connection with surveillance and

---

<sup>6</sup> See *Darby v Sweden* (1991) 13 EHRR 774, which has been cited in a number of subsequent cases where challenges have been brought to discriminatory tax provisions.

information gathering activities by revenue authorities. However, it has also been mentioned in cases involving taxation and the family.

Finally, Article 12 provides as follows:-

***“Right to Marry***

*Men and woman of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.”*

Perhaps it is something of a reflection of the ingenuity of tax lawyers that this Article 14 has also been raised in tax cases concerning family status, but without any notable success.

***Discrimination on grounds of marital status***

The scene for this discussion is largely set by two early cases decided by the old European Commission of Human Rights, Hubaux v Belgium<sup>7</sup> and Lindsay v United Kingdom<sup>8</sup>. These applications were both registered with the Commission on the same date, 16<sup>th</sup> August 1984<sup>9</sup>.

---

<sup>7</sup> Application number 11088/84, decision of the 9<sup>th</sup> May 1988.

<sup>8</sup> Application number 11089/84, decision of the 11<sup>th</sup> November 1986.

<sup>9</sup> There is no explanation as to why these two case, raising a similar issue were registered on the same day with consecutive Registry numbers. There does not seem to have been any planned attempt to test the application of the Convention to tax rules which applied differently to married couples. The two cases were introduced to the Commission on different dates, 4<sup>th</sup> June 1984 in the case of Lindsay, and 17<sup>th</sup> July 1984 in the case of Hubaux. It may simply be that in the Registry it was appreciated that these cases raised similar issues, and it was decided to give them consecutive numbers and register them on the same date.

The Hubaux case concerned complaints against the Belgium system of aggregating the income of husbands and wives for tax purposes. The taxpayer argued that by virtue of the system of aggregating income, he was liable to a higher overall tax charge than if he and his wife had remained separate. The claim was based upon Article 14 (combined with Article 1 of the First Protocol), Article 8 (by itself and also combined with Article 14) and also Article 9 (“freedom of thought, conscience and religion” – making reference to the religious nature of marriage as a sacrament). The Commission declared the application inadmissible as married couples and co-habitees were not in a comparable position.

In Lindsay the taxpayer complained of the United Kingdom system of aggregating the income of husbands and wives<sup>10</sup>. The taxpayer based his complaint on Article 8, Article 12, Article 14 (combined with Article 8) and Article 14 (combined with Article 1 of the First Protocol). The Commission invited the parties to a hearing<sup>11</sup> but then dismissed the complaint on the grounds that married persons and co-habitees are not in a comparable position, and that the rules applied by the United Kingdom for the taxation of married couples were within the wide “margin of appreciation” which a state enjoys in tax matters.

There has been no serious attempt to challenge the Hubaux and Lindsay cases since they were decided in 1986 and 1988. It seems generally to be accepted that, where taxation issues are concerned and during the subsistence of the marriage, married

---

<sup>10</sup> The complaint related specifically to the year of assessment 1982-83 which preceded separate taxation of husbands and wives, and when the highest income tax rate of 75%.

<sup>11</sup> It is interesting to note the United Kingdom government was represented by (inter alia) Alan Moses and Brian Cleave; the taxpayer by David Pannick.

persons and co-habitees are not in a comparable position<sup>12</sup>. The only case since 1988 was Catharine Feteris-Geerards v Netherlands<sup>13</sup> which concerned the wife of the well-known Dutch tax lawyer (with a strong interest in human rights issues) Maarten Feteris, who represented his wife in the case. In the claim, complaint was made of a Dutch rule under which certain tax deductions were allocated between the spouses on the basis that they were allocated to the spouse with the higher income. The basis of the complaint was Article 14 (combined with Article 1 of the First Protocol). The Commission dismissed the claim as follows:-

*“Having regard to all the rights and obligations which characterise marriage... noting that Article 8 of the Convention protects family life, and given the Contracting States’ wide margin of appreciation in the field of taxation as to the aims to be pursued and the means by which they are pursued, the Commission accepts that a married couple may in some respects be treated as an economic unit, also taking into account the desirability to keep rules concerning the determination of taxable income simple and practical... In these circumstances the Commission is satisfied that there was an objective and reasonable justification for the transfer of tax deductible amounts to the spouse with the higher income.”*

While these cases may now be regarded as slightly dated, they present a clear obstacle to anyone seeking to argue that tax rules which might treat a married couple adversely by comparison with co-habitees could be regarded as in breach of the Convention. However, final examination of these cases should, perhaps be deferred until after a fuller consideration of other cases involving discrimination on grounds of personal or marital status.

---

<sup>12</sup> But see the discussion of the Burden case below.

<sup>13</sup> Application number 21163/93, decision of the Commission of 13<sup>th</sup> October 1993.

## *Discrimination on Grounds of Sex*

One area where taxpayers have had some success – at least from a theoretical point of view – in challenging substantive tax rules is where those rules make an arbitrary distinction between taxpayers according to whether they are male or female. Perhaps the best illustration of this is the case of Van Raalte v Netherlands<sup>14</sup>. Under the former Dutch rules relating to child benefit contributions, an unmarried and childless woman over the age of 45 years was not required to pay the contribution. However, a man in similar circumstances was required to pay. Mr Van Raalte complained of this overt discrimination against men<sup>15</sup>. The Dutch government noted that there was a biological reason behind the distinction in that women over the age of 45 were unlikely to have children, and pointed to the wide margin of appreciation enjoyed by states: aside from that, the government did not seek to justify the legislation but pointed out that the exemption for women had been abolished with effect from 1<sup>st</sup> January 1989.

The European Court of Human Rights held that there had been a violation of Article 14 (taken together with Article 1 of the First Protocol), but denied Mr Van Raalte any financial compensation. In an aspect of the decision which has been revisited more recently<sup>16</sup>, the Court held that, if the exemption for women had not existed, Mr Van Raalte would still have had to pay the contribution. This, of course, highlights one of the dangers of a taxpayer who complains of discriminatory tax provisions. The government concerned may simply remove the discrimination by removing the

---

<sup>14</sup> Application number 20060/92 Decision of the European Court of Human Rights, dated 28<sup>th</sup> January 1997.

<sup>15</sup> It is interesting to note that Mr Van Raalt was represented by Professor Maarten Feteris.

exemption or advantageous treatment for the other social group. This is not exactly an encouragement to taxpayers who wish to challenge discriminatory tax provisions.

Other challenges based upon tax provisions which discriminate on grounds of sex have been brought against the United Kingdom.

Helen MacGregor v United Kingdom<sup>17</sup> concerned the additional personal allowance for a taxpayer whose spouse was incapacitated, under s.259 of the Taxes Act 1988. The legislation applied only to a man with an incapacitated wife, and not to a woman with an incapacitated husband. The Commission found the claim admissible based upon Article 14 (combined with Article 1 of the First Protocol). A friendly settlement was reached and so no final decision on the merits was issued. The legislation was subsequently amended<sup>18</sup> and finally repealed<sup>19</sup>.

In the National Insurance Contribution context, in the case of Walker v United Kingdom<sup>20</sup>, the taxpayer complained that he had to continue to pay contributions until the state retirement age of 65 for men, while a woman could cease paying contributions at the state retirement age of 60. The complainant was a man over 60, and if he had been a woman he could have ceased to pay contributions. After finding the complaint admissible<sup>21</sup>, the Court concluded that a linkage of payment of National Insurance Contributions to the state pensionable age should be regarded as pursuing a

---

<sup>16</sup> See the discussion of *Widowers' Bereavement Allowances* below

<sup>17</sup> Application number 30543/96, report of the Commission adopted on the 1<sup>st</sup> July 1998.

<sup>18</sup> By FA 1988 s.26.

<sup>19</sup> By FA 1999 ss. 33, 139 and Schedule 20.

<sup>20</sup> Application number 37212/02, judgment of 12 February 2007 of the European Court of Human Rights.

legitimate aim and as being reasonably and objectively justified. The Court had previously concluded that the United Kingdom's plan to equalise the pension age for men and women in the year 2020 was within the margin of appreciation<sup>22</sup>. There was accordingly no violation of Article 14.

One might conclude at this point that even tax measures that discriminate on grounds of sex may fall within the margin of appreciation enjoyed by governments. Following the Van Raalte case, a taxpayer who successfully complains of discrimination on grounds of sex in the granting of a tax exemption to one sex but not to another may not receive any financial compensation for that claim. The argument may be that the grant of the exemption is anomalous, and that to award pecuniary compensation would be to extend the anomaly.

### **The Widower's Bereavement Allowance Cases<sup>23</sup>**

A discussion of tax measures which discriminate on grounds of sex leads to a discussion of the widowers' bereavement allowance cases, which have now, one suspects, by and large come to their final conclusion.

In 1980, the Chancellor of the Exchequer Sir Geoffrey Howe introduced an additional allowance for a widow following the death of her husband. At the time, such an additional allowance could be justified on the basis that, under the system of taxation

---

<sup>21</sup> See the admissibility decision of 16 March 2004.

<sup>22</sup> See Sec and others v United Kingdom, application numbers 65731/01 and 65900/01, judgment of 12<sup>th</sup> April 2006

of the income of husbands and wives at that time, the death of a husband would deprive the widow of the benefit of his higher personal allowance. At the time, Professor Tiley wrote<sup>24</sup> and, with remarkable foresight, referred to the possible discrimination against widowers that this involved<sup>25</sup>.

In the late 1990's a number of widowers sought an allowance equivalent to that granted to widows and, when they were refused, took their claims directly to Strasbourg. In two cases, Crossland v United Kingdom<sup>26</sup> and Fielding v United Kingdom<sup>27</sup>, after the claims had been found to be admissible, a friendly settlement was agreed and the United Kingdom government paid the equivalent of the value of the bereavement allowance to the claimants. Other widowers sought to claim a similar settlement, and when such claims were rejected an action was brought in the United Kingdom courts which led ultimately to the decision of the House of Lords in R v HM Commissioners of Inland Revenue, ex parte, Wilkinson<sup>28</sup>.

By the time of the House of Lords case the United Kingdom Government had conceded that the grant of the allowance to widows and not to widowers was discriminatory and contrary to Article 14. However, the Government contended successfully that, by virtue of s.6 of the Human Rights Act 1988, they could not grant

---

<sup>23</sup> Strictly speaking, discussion of a "widower's bereavement allowance" is inaccurate: there was only ever a bereavement allowance under Taxes Act 1988, s.262 which was available to widows only. However, it is convenient to refer to these claims as claims for a widower's bereavement allowance.

<sup>24</sup> See Tiley, J: "Widowhood anomalies" [1980] B.T.R. 216-218.

<sup>25</sup> Ibid., page 218

<sup>26</sup> Application number 36120/97

<sup>27</sup> Application number 36940/97

<sup>28</sup> 2005 UKHL 30, [2006] STC 270.

the allowance to widowers without contravening primary UK legislation. More practically, they argued – and Lord Hoffmann accepted in the leading speech – that there was no obligation to compensate widowers for any pecuniary loss: the retention of the widows' allowance after the introduction of separate taxation was an anomaly and it would be to extend this anomaly if widowers were to be given compensation. In essence the argument was that the correct response to this discriminatory provision was to remove the allowance for all taxpayers following the introduction of separate taxation, and therefore widowers were not entitled to a financial payment.

On the same date, the House of Lords held that widowers were, however, entitled to claim compensation for certain social security benefits – the Widow's Payment and Widowed Mother's Allowance<sup>29</sup>.

Following the refusal of the United Kingdom government to make payments similar to those paid to Messrs Crossland and Fielding, a large number of widowers lodged claims directly with the Court in Strasbourg for compensation for the failure to grant them a widower's bereavement allowance. After the two House of Lord cases, the United Kingdom government offered to settle the claims of widowers for the social security benefits (Widow's Payment and Widowed Mother's Allowance), but offered no payment in respect of the Widower's Bereavement Allowance. Finally, in the case of Hobbs and Others v United Kingdom<sup>30</sup>, the Court in Strasbourg reached the same conclusion as Lord Hoffmann in the House of Lords. That is, that the widow's bereavement allowance was an anomaly and that widowers were not entitled to any compensation despite the admitted breach of Article 14.

Again, one might make the point that there is little encouragement for taxpayers who would wish to challenge discriminatory tax rules in this saga of the widower's bereavement allowance. At the end of the day, with the exception of Messrs Crossland and Fielding, other widowers received no compensation for the failure to extend to them the bereavement allowance despite the fact that it was accepted that the tax allowance had been operated on a discriminatory basis. It might have been true that the better response of the UK government when faced with the discriminatory allowance after the introduction of separate taxation was to remove the allowance. Nevertheless, this was not done, and the widowers were discriminated against for a number of years. This leaves a theoretical situation under which discriminatory tax measures may be challenged. However, if compensation is unlikely to be paid at the end of the day, one wonders how many taxpayers would bother to bring a challenge.

### *Discrimination on grounds of former marital status*

The question of deductibility of maintenance payments to a former partner (or for the benefit of a child of a former relationship) is also a topic on which Professor Tiley has written<sup>31</sup>. This is also a topic where a taxpayer has had somewhat more success – see P.M. v United Kingdom<sup>32</sup>.

---

<sup>29</sup> See R v Secretary of State for Work and Pensions, ex parte Hooper [2005] UKHL 29

<sup>30</sup> Application numbers 63684/00 and others, judgment of 14<sup>th</sup> November 2006

<sup>31</sup> See Tiley, J: "Section 52 and Maintenance Payments" [1985] B.T.R. 329

<sup>32</sup> Application number 6638/03, admissibility decision of 24<sup>th</sup> August 2004, judgment on the merits of 19<sup>th</sup> July 2005. The author should disclose that he was involved in assisting in the presentation of PM's case to the European Court of Human Rights.

This case concerned qualifying maintenance payments under the Taxes Act 1988, s.347B. Where qualifying maintenance payments were made for the benefit of any child of the family, they were deductible by the payer but only if there had been a prior marriage (whether the marriage was subsisting or had been dissolved or annulled). In P.M.'s case, the taxpayer had lived in a stable relationship with his partner, but they had never married. They had a daughter, and after their separation the taxpayer undertook to pay maintenance for his daughter. He was denied a deduction for the maintenance payment on the grounds that he and the girl's mother had never been married. The Strasbourg Court accepted the taxpayer's claim for compensation on grounds that the provision was discriminatory between parties to a former marriage and parties who had never been married. The Court dealt with the comparison with married couples as follows:-

“...This is not a situation where the applicant seeks to compare himself to a couple living in a subsisting marriage (see for example, Lindsay v United Kingdom, cited above, where married and unmarried couples, taxed differently, were not found to be in a comparable position), but one where the married father has separated or divorced and is also living apart from the child of the family. Other persons, not parents, are not covered by the child support provisions and are generally in a different situation. This applicant differs from a married father only as regards the issue of marital status and may, for the purposes of this application, claim to be in a relevantly similar position.

[28] The justification for the different in treatment relied on by the Government is the special regime of marriage which confers specific rights and obligations on those who choose to join it. The Court recalls that it has in some cases found differences in treatment on the basis of marital status has had objective and reasonable justification (see, for example, McMichael v United Kingdom, judgment of 24<sup>th</sup> February 1995, Series A, no. 307-B, s.98, concerning legislation which did not grant automatic parental responsibility to unmarried fathers who inevitably varied in their commitment and interest in, or even knowledge of, their children). It may be noted however that as a general rule unmarried fathers, who have established family life with their children, can claim equal rights of contact and custody with married fathers (see Sahin v Germany [GC], number 30943/96, s.94, ECHR 2003–VIII). In the present case the applicant has been acknowledged as the father and has acted in that role. Given that he has financial obligations towards his daughter, which he has duly fulfilled, the Court perceives no reason for treating him differently from a married father, now

divorced and separated from the mother, as regards the tax deductibility of those payments...”

There are a number of comments one might make on this judgment.

First, the UK Government could not realistically say here that the tax deductibility of qualifying maintenance payments for previously married couples was anomalous and should not have been extended to couples that were never married.

Secondly, the judgment implicitly recognises the continuing force of the old case law to the effect that a state may tax married couples differently from unmarried persons during the subsistence of the relationship. The new point added by P.M.’s case is that the difference in tax treatment may no longer be justified once the relationship has ended.

Thirdly, the essence of the decision is that, once a relationship has ended, the parties to that relationship may be in a similar position whether they were previously married or not. The obligations of mutual support, or support for children of the relationship, may be the same regardless of whether there was a previously subsisting marriage or not. This raises the interesting question as to whether on the termination of a relationship on death, married and previously unmarried couples should be regarded as being in a comparable position<sup>33</sup>. Assuming that there is a similar legal duty (or possibly a recognised moral duty) to make adequate provision for the maintenance of a dependent – whether a spouse, civil partner or not – then it may be that other

---

<sup>33</sup> Which in turn raises the interesting question of whether the Special Commissioners’ decision in Holland v IRC [2003] STC (SCD) 43, which concerns the application of the inheritance tax inter-spousal exemption to unmarried couples, should be reconsidered in the light of the decision in P. M. v United Kingdom. This issue is not considered further here.

dependents can claim to be in an objectively similar position to a spouse or civil partner.

### *Discrimination on grounds of existence of a family unit*

We come finally to the most recent issue before the European Court of Human Rights regarding UK taxation and family units. On the 12<sup>th</sup> December 2006, the Strasbourg Court issued its judgment in the case of Burden and Burden v United Kingdom<sup>34</sup>, but the case has subsequently been referred to the Grand Chamber, and at the time of writing that hearing is pending.

The applicants were unmarried sisters aged 88 and 81 respectively at the time of the judgment. They had lived together all their lives and were currently living in a house built on land inherited from their parents. They were concerned that, when either of them were to die, the survivor would have to sell the house in order to pay inheritance tax<sup>35</sup>.

Had they been a married couple, or a homosexual couple who had formed a civil partnership<sup>36</sup>, then there would have been an inheritance tax exemption on the death

---

<sup>34</sup> Application number 13378/05.

<sup>35</sup> There is a very puzzling aspect to this case. If one examines the financial figures set out in the case it appears that on the death of the first of the two sisters there should have been sufficient other assets held by that sister to pay any inheritance tax without recourse to selling the house (particularly given the availability of the instalment option). Perhaps there are other facts that have not been made clear in the judgment. Certainly, one has to accept that the two sisters were sufficiently concerned that the inheritance tax bill on the death of the first sister to die would necessitate sale of the property, and this worry was sufficient to allow them to claim victim status to pursue their claim.

<sup>36</sup> It is a fair point to make that the extension of the tax treatment of spouses to civil partners in a homosexual relationship may also be seen as a change to the tax system brought about as a result of the Human Rights Act. One cannot conclusively say this though, as it may be seen as much as a reflection of a change in societal norms.

of the first to die. In effect they argued that there was discrimination against them because of the failure to extend the exemption regime to them as a family unit.

By a majority of four votes to three, the Court held that there had been no violation of Article 14. The judgment recognised that the decision not to extend the exemption beyond married couples and civil partners fell within the wide margin of appreciation of the United Kingdom Government.

What will be the final outcome of the case remains for the judgment of the Grand Chamber. If the taxpayers are successful then there is, in effect, a very significant new restriction on the margin of appreciation enjoyed by states in the field of taxation. UK tax legislation has already seen an extension of the treatment of married couples to civil partners. This case would require a similar treatment to be extended to others – perhaps not simply siblings but also close friends – who had effectively formed a single family unit and should be taxed as such.

### *Some Concluding Comments*

This short chapter has sought to consider the somewhat limited jurisprudence where the European Court of Human Rights has considered the impact of the Convention on taxation rules which employ criteria based on personal or family status. As has been seen, a number of those cases arise from provisions contained in United Kingdom tax legislation.

In many respects, this brief discussion of taxation, human rights and the family ends with matters up in the air pending the judgment of the Grand Chamber in the Burden

case. This chapter has charted the somewhat mixed fortunes of taxpayers who have sought to rely upon provisions of the Convention to challenge legislation which, discriminates on grounds of sex.

In terms of Professor Tiley's initial question, "*Is it really worth having all this fuss and bother about the Human Rights Bill*", the jury is still out. In the nine years since the Human Rights Act incorporated the Convention in to UK domestic law, there have been a few victories for taxpayers. The greater impact of the Convention may exist, however, rather more in the way that the Government chooses to tax the family in the future. It may be that we shall see less discriminatory provisions and a more equal treatment of family units going forward. If that is correct, then the "fuss and bother" would have been worthwhile.

Philip Baker QC  
Grays Inn Tax Chambers