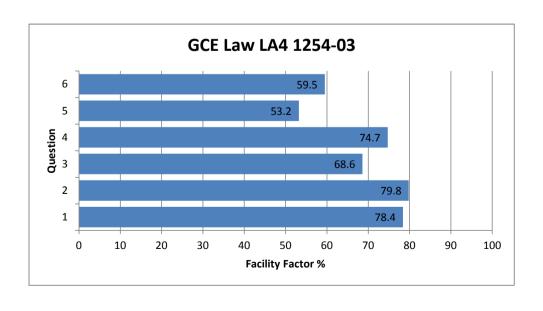


WJEC 2014 Online Exam Review

GCE Law LA4 1254-03

All Candidates' performance across questions

?	?	?	?	?	?	?	_
Question Title)>	Mean	SD	Max Mark) F	Attempt %	
1	208	19.6	4.4	25	78.4	83.5	\leftarrow
2	225	19.9	4.9	25	79.8	90.4	\leftarrow
3	13	17.2	6.7	25	68.6	5.2	
4	50	18.7	4.5	25	74.7	20.1	\leftarrow
5	60	13.3	6.9	25	53.2	24.1	
6	185	14.9	5.5	25	59.5	74.3	\leftarrow



Option 3: Freedom of the Individual and Protection of Human Rights SECTION A

Answer **two** questions from this section.

1. "The introduction of a Bill of Rights would overcome the limitations of the Human Rights Act 1998." Discuss. [25]

1	
١.	The Human Rights Act 1998 was an
	Act Set up to give citezens rights.
	There are many articles with the
	Act Set up to give citezens rights. There are many articles with the Human Rights Act that protect and
	give people rights. Staiting from Article
	I to ATHICLE 13. Some of these nuticles
	give people rights. Staiting from Article I to Article 13. Some of these articles unclude Article 2 the right to life, Article
	13 the name in the persuperted to
	inhumane or degradung treatment. Article 8 right to privacy and Article 10 right to freedom of expression. There are many restrictions on
	8 right to privacy and Afficie 10
	right to freedom of expression.
	There are mony restrictions on
	Some of the Articles, therefore
	Article 10 right to Freedom of expression
	can be witheld if neccessary, in
	the Merest of national security.
	The humour rights court can only
	the human rights court can only hear an individuals claim if it
	is regognised by the state as a
	breach of & the individuals human
	rights. The UK didn't bring the
	convention into domestic law until
00	1998 therefore before then a litezen
	would have to go to the European
	court Pretty v UK 2002 and Goodwin
	V UK 2002.
	The Human rights act gives
	Positive rights and not just liberties.
	The right's given under the ECHR
	were directly enforceable to the
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	numan Rights Act 1998 It could
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	Section 2 of the Muman Rights

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-	Act 1998 States that a judge must refer
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	decision that is relevant to the
	given case. Some people argue that
	Section 2 gives a weak obligation
	of judges, due to no independence.
	Section 3 of the Human Rights Act
	States +not 'as far as it is possible
	to do so regustation must be
	to do so jegislation must be read and given effect in a
	way that is compatible with
	the convention rights.
	When a madde is interpreting
	lows, he must be mindful of
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	that persons human rights annot be
	upheld then the higher courts are
	able to issue a declaration
	of incompatibility under Section 4.
	OF the Human Rights Act Bellenger 2003.
	Section 6 States that it is
	unlawful for public authorities to
	act in such a way that is
	incompatible with the convertion
	Rights. Public Authorities include local
	or centeral governments, police,
	NHS etc. The meaning of public
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	BUL OF RIGHTS SUSTEM, AMERICA, China and Most of Europe do nowever
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	that is enforcing it.
	The UK'S rights are held
	under the Human Rights Act 1998.
	Thus legislation can be repealled
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	The UK'S rights are held
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	This legislation can be repealled
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	be elected. They also believe
	that a Bill of Rights is to difficult
į	to change and it blocks out
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4	of the Human Rights act but
10	it may be hard to have a
3	balance between effectivness and
21	Parlimentary Soverigty.



In 2010 when the Conservative government came into power they proposed a British Bill of alternative to the current Human replace the HPA within the law. However, the liberal not as open to the BULL Conservoutives imutations of The Bill of Right would overcome the through their many cums and was taken from the European would give British people ownership the conjunction therefore limit the include limitation Bill generoled" , especially terronsk RIGINE overcome limitations unposed are limitations brough there would new law Another factor Moreover if has not

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Overall the introduction of a British Bill of Rights would not overcome the limitations of the Human Right Act. This is because if has not been toxted, the government cannot be sure that if would be effective in this country. Furthermore the Human Rights Act has been implemented for less than twenty years and has not had time to fully develop. There have been no reasons to believe that the Act is doing an insufficient job of protecting the afterior. For the Bill of Right to be considered as replacement, something drawtic neads to go wrong with the HRA. The HRA currently does not impose timeto limitations and therefore the Bill of Right would not be beneficial in society. The HK Currently, there is no need for the Bill of Right to be introduced as the Human Right Act is working efficiently.		Over
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22	there is no need for the Bill of eight to be introduced
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Option 3: Freedom of the Individual and Protection of Human Rights SECTION A

Answer two questions from this section.

2. To what extent does the Equality Act 2010 provide a comprehensive system of protection against unjustifiable discrimination? [25]

The Equality Act was passed in 2010 with an aim to simplify the laws on discrimination Prior to the EA common law there were no laws against eliscrimination. There was then the protection discrimination under Article 14 of the European Convention Human Right (ECHR). However there system against discrimination descrimination was still occurring Race Relations ACA 1965 and the protected the of discrimination. However covered under MCA these laws of the Equality Ad in 2010 then provided comprehensive system.

The introduction of the Equality Act aim to take the discrimination laws, simplify then and put them The Act had some main cums to improve ban age discrimination outside protection, such as, strengthen the protection for the disabled, of the disabled protection to the carers gender cliscrimmation within the workplace, listed nine protected Mat characteristics covered the Act, these were, age, gender, disability reassignment marriage and avil partnerships and religion and belief. The aims characteristics set out under the Act provided for a and comprehensive system of protection against unjustifiable discrimination

five areas Equality Act pointed out conduct, they are direct discrimination indurect for the coulure to make reasonable adjustments sichmis whon. person treats person less forcurably because that pessesses example, 104 employing sexuality Direct discrimination bladant form of discrimination common and

if is the easiest to prove. Under this section the rules of directindes the Equality Act Ind direct discrimition are clear, therefore showing that the system is comprehensive in protecting cutizens from discrimination. Indirect discrimination under the Equality Act is when a paracular provision, criterion or practice is applied which disadvantager a certain group of people. A ease that shous indirect discriment discrimination is Mandla V Dowell Lee. Indirect discrimination is not as easy to prove as direct therefore showing that the system in place for protection against this type of prohibited conduct is not as comprehensive as for direct. Untike direct, indirect is discrimination towards a group of people not an individual. The third type of prohibited conduct is in held under S.20 Equality Ad. failure to make reasonable adjustments for the disabled is possibly the least common type of prohibited conduct. The section states that this type occurs when a certain provision, criterior or practice is imposed that would highly disadvantage a disabled person. An example of the failure to make reasonable adjustments be seen in Auen v RBS Under 5.24 of the Equality Hourassmens is stated as the creation of a nostule or intimidating environment. There are three types of harassment defined under the Act, general, sexual or rejection of sexual. most commonly found in the workplace. of howassment is in begoing wil Jentins V Legisland Windsor Under the Equality Act a comprehensive system is effered to citizens to protecta them from this type prohibited conduct. The final type of prehibited conduct defined under the Equality Act is victimisation. This is defined under 5.26 of the Act. Victimisation is when a persons make anoth discriminater against another person between because they poblieve that person does a protected or is going to commit a protected Ad example of victimisation would be missing out on a

	promotion in work because your manager thought you
	were homosexual. Victimisat Under the Equality Act
	victimisation is no longer held under the same definition
	as discriminaction. Therefore now affering a more comprehensive
	system of protection for whitens.
	The protection that is offered to Uk cutizens under the
	Equality Act is sugressent as it affect us much more protection
	than in previous year. The Act explains when what counts as
	unjustifiable discrimination through a comprehensive system.
	The a protection had made significant improvement since
	being implemented and it has been made easier for Vie
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7	law to joview rather than the ECHR.
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The Equality Act was passed in 2010 with an aim to simplify the laws on discrimination Prior to the EA law there common were no laws against eliscrimination. There was then the protection Article 14 of the European Convention discrimination under Human Right (ECHR). However there system against discrimination comprehensive in place discrimination was still occurring Race Relations and protected the of discrimination. However circus that covered under nca introduction of the Equality Act in 2010 then provided comprehensive system. The introduction of the Equality Act aim to take the discrimination laws, simplify then and put them The Act had some main cums to improve protection, such as, ban age discrimination outside strengthed the protection for the disabled, protection to the carers of the disabled and get gender discrimination within the workplace. listed nine protected characteristics that covered the Act, these were, age, gender, disability marriage and civil parmerships reassignment, and religion and belief. and materinty The aums the ACA provided for a characteristics set out under and comprehensive system of protection against unjustifiable discrimination Equality Act pointed out five areas of conduct, they are direct discrimination indurect sculure to make reasonable adjustments for the sichmisation. Under direct discrimination? person treats person less forwarrably because that employing example, 104 their sexuality pired discrimination

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	The a protection had made significant improvement since
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11	cutizent to det against discrimination. We now have our own
3	law to joviou rather than the ECHR.
22	



Option 3: Freedom of the Individual and Protection of Human Rights SECTION A

Answer two questions from this section.

4. "The safeguards surrounding the powers of the police to conduct secret surveillance are inadequate." Discuss. [25]

4.	Refore 1985 there were no regulations
	to controlles state surveillance, the
	Home office just gave guidelines.
	There had to be regulations
	put in place because suriveillance
	was seen to invade peoples
	Drivari Article & Dight to privari mayor
	the Human Rights Act is being breached. Majone 1979 Chailegena
	breached. Majone 1979 challegenoi
	the fact that there were not
	regulations to protect im or our
	rights so because of this the
	European Convention of Human Rights
	added regulations to project us.
	As of 1985 there was a
	new Act imposed called the
	Interception of communications Act 1985.
	This Act gave regulations on only
	mail and telephone it interceptions
	However bugging was still
	However bugging was still unregulated - To gain a warrant under this act there must be
	under this act there must be
	on adequate grounds met. There
	were three grounds which were
	given under <u>Section 2</u> . The grounds
	were, it must be in the inferest
	Of national security, there must
	be danger of a serious crime or

	lostly it must be to sateguard the
	section 3 States that the
	worrant must be specific, it must
	give a specific name and also a
	opecific adress.
	Section 4 States that it must
	be personally Signed by the home
	be personally Signed by the home secetary or it in urgent cases
	the nome office official.
	A warrant is issued for an
	initial 2 months and then an
	& renewed I moth in the case of the
	police an 6 months in the case
	of security Services. There is no absolute limit which could be
	argued doesn't protect us. The
	Biggest criticism is that of who is
	authorising the warrant. In this.
	case its the home secretary, this
	is argued to give no independent
	scruting so therefore shouldn't
1	de alla wed. Maune a ludae in
(a court coma authorise it.
	maybe this would give more
	ind-épendence m
	There was no projection from
	bugging until the police Act 1997
	was infloduced as a result of
	and so the ECHR ordered for
+	here to be a new law put
	in place. The Police Act States that
	there is no need for a warrant
1	o enter premerin. S.92 States that
	police have absolute immunity to
	Criminal Prosecution - It can be

argued they get immunity but what about us as citezens. For a warrant to be essued under the police Act 1997 there must be thought that the warrant wall the the warrant wall add substantial value to the case. The police must also undergo a proportionality test to see if it would be proportionally test to see if it would be proportionally that considers claims made by people who believe they are or have been subjected to some sort of surveillance. It is the tribunals of surveillance if it has has to whether a warrant how been as to whether a warrant how been under effectively, wan it proportionate, and if it has has it been usued and if it has has it been usued effectively, wan it proportionate, and it add substantial value to the case. However it is extremely hard near enough impossible to prove that you have been subjected to one in the UK has ever succeeded when taking their claum to a tribunal court. Section 9 states that no appositions can be asked and no furding must be shown, this helps them in there asked and no furding must be shown, this helps them in there asked and no furding must be shown, this helps them in there asked and no furding must be shown to review because they brought in an independent commissioner to review	4	
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Both intrusive and directed
Surveillance have advantages and
disadvantages and they both must
he authorised before outling
them to work. If you wanted to
orgue against this then you
could only take your cloum
could only take your claim to the RIPA tripunal.
In Conclusion The powers of the police to
Conduct Stoile survellance has
been argued against a lot. Many
believe it is inadequate because It
produces a bios opinion. The
police authorising the police is also because they all have a
become they all have a
10p to catch arminals thereore
they will go to any tengths
to ensure this nappens.
The Acts being brought in
allow a more independently scrutinised
society, with more independent
protection given to us:
1 think its better now that
the police need warrants
because its not so easy to
breach our human rights and
theres a smaller chance that
you will be subjected to surveillance when there is no
relevant reason to be.
TOWN IT TOWN TO UC.

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4.	Before 1985 there were no regulations
	to contrologions State surveillance, the
	Home office just aare audelines.
	Home office just gave guidelines. There had to be regulations
	put in place because suriveillance
	was seen to invade peoples
	Drivari Articip & Digit to privari mander
	the Human Rights Act is being
	the Human Rights Act is being breached. Majone 1979 chailegenoi
	the fact that there were not
	regulations to protect IM or Our
	rights so because of this the
	European Convention of Human Rights
	added regulations to project us. As of 1985 there was a
	As of 1985 there was a
	new Act imposed called the
	Interception of communications Act 1985.
	This Act gave regulations on only
	Mall and telephane it intercentional
	However bugging was still
	unregulated- To gain a warrant
	However bugging was still unregulated - to gain a warrant under this act there must be
	on adequate grounds met. There
	were three grounds which were
7	given under Section 2. The grounds
	were, it must be in the inferest
	of national security, there must
	be danger of a serious crime or

10sty it must be to safeguard the
section 3 States that the
wour ount must be specific, it must
give a specific name and also a
specific adress.
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Evidence must be shown, this helps
them in there case.
There has been more
protection over intrusive surveilance
because they brought in an
independent commissioner to review

	the authorisation, this independent
	commissioner is wually a retired
	Judge. It could be argued that
	It has provided protection, but
	Only as but not fair enough
	because we still have police
	authorising the police and this
	can be seen as blas and so
	unfour to us and it doesn't
	provide any independent protection
	RIPA 2000 was then brought
	in RIPA 2000 covers all types of
9	surveillance, from intrusive, directed
	moul and bugging RIPA 2000 ouso outhorises other bodgies to
	auso authorises other bodgies to
	apply for the authorisation of
	survellance, for example customs.
	RIPA 2000 also gives a oustinction between intrusive.
	and a supplied in the supplied
	and direct surveilance. Intrusive
	Surveillance is all about Putting
	Surveillance dévices onlinproperty
(Thus type of Surveillance has to
	be authorised by a Chief constable
	intrusive surveillance lasts for an
	initial 3 months and then renewed
	indefinatly. This could again be
	argued to give no protection
	argued to give no protection to us and go egainst our
	rights e.g. Afficie 8 right to privacy.
	Directed Surveillance is
	authorised by a superintendent.
	it is helieved it needs to ne
	authorised by a person of
	a higher rank. Maybe the chief
	constable, just live intrusive surveillance

	Both intrusive and chrected
	Surveillance have advantages and
	disadvantages and they both must
	be authorised before outling
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	allow a more independently scrutinised
	society, with more independent
	protection given to us.
	think its better now that
	the police need warrants
- Ag	because its not so easy to
11	breach our human rights and
3	theres a smaller chance that
	you will be subjected to
23	surveillance when there is no
	relevant reason to be.

SECTION B

Answer one question from this section.

6. Study the text below and answer the questions based on it.

"The European Court of Human Rights treats the Convention as a living instrument which must be interpreted in the light of present day conditions. This means that the doctrine of precedent does not operate in the way that stare decisis operates in Common Law jurisdictions. Instead, the Court regards its previous decisions as a starting-point rather than as binding precedent, and any part of the judgement may provide guidance for the interpretation of the Convention in later cases."

- (a) Explain the nature of the European Convention on Human Rights. [11]
- (b) Evaluate the operation of judicial precedent in the law of England and Wales. [14]

(Ga)	The European convention of Human	
	Rights was a body set up after	
	WINII. HO It was Set up in 1950	
	to because of all the Atrocities	
	committed in WWII.	8 p
	The ECHR had 3 oums in	

S 0.004	
which they worked towards. The	
tirst clim was the identification of	
a number of mounty civil and	
political rights that were centeral of	
the democracy and and society.	
The second our heing to impose	
an annoution on each state to	
Secure the rights of their own	
Jansaction. The Final Cam was to	
get their own machinery for the	
enforcement of the rights.	
As well as there being	
auns there were also rights. There	
were Articles which usued huma	1
rights, these some of these articles	
were Article 2 - right to life,	
Article & right to privacy, Article 10 right to treedom of expression.	
10 right to Heedom of expression.	
some of the rights had	
restrictions, therefore Affiche 10 the	
right to freedom of expression.	
can be withheld it necessary in	
the interests of national security.	
The human Rights court can	_
only hear an individuals claim	4
if it is recognised by the State	
as a breach of the individual	4
human nghts. The UK clidn & bring the convention rights into the domestic law until 1998. Until then a citezen would have to	
THE CONTROLLING PIGHTS WHO THE	-
COMESTIC ICUS UNTI 1998. UNTI	_
and the time the sound have to	-
When taking a claim. Pretty VVK 2002. The human Rights	-
when taking a claim. Pretty VVK	-
MIT OLIANA PODITIONAL RIGHTS	-
Tippeties The District 1915 110+ Just	
act gives positive rights not just Tiberties. The Rights given under the ECHR were ourectly	-
THE ELIA WAY DURCHY	

enforceable to the UK without any
need to apply to go to
Strasbourg section 7.
Section 2 of the human Rights
Act 1998 states that judges must
FOLIOW Case law to help them mouce
decicions that are relevant to the
case - Some say section a gives a
Weak obligation to judges. Section 3 States that as far
<u>Section 3 States</u> that as far
as it is possible to do so' legislation
must be read and given effect
in a way which is compatible
with the convention rights.
when a juage so interpreting laws, he must be minatul of
10,005, he must be mindful of
what the person is arguing. It
the persons human rights cannot
be uphela then higher courts are able to usue a declaration of
incompatibility under Section 4.
Bellenger 2003.
Section 6 States that it is
uniament for public authorities to
act in such a way that is
NOT compatible with the European
not compatible with the European convention rights. Public bodies
INCITIVE INCUTTICENTALLY UNITERNMENT
police and NHS etc The meaning
I of public hodies was discussed
IN ponoghue 2001.
There are also limitations
to the HRA 1998, they include that
legislation that is not compatible
legislation that is not compatible with the European convention
rights are Still Valla and judges can't

	Strike them out. However if courts find out it is not compatible they can issue a declaration of incompatibility size. Bellenger 2003. There are Both advantages and disadvantages of the HRA, an advantage being its profects cirteens rights. A disadvantage being it isn't flexible.
6b).	Precedent is known as stare decisis a precedent eaco promotes conformity, fainces and certainty. Precedent is concerned with the count Hierarchy. The supreme count, is the highest appeal court for Civil and criminal law. It binds all courts below and was bound by its own decision per andon tramways 1979. The next court is the court of appeal. the court of appeal is bound by the supreme court, its not bound where the previous decision resulted in the incorrect conviction of a defendent eviousor 1990. The next court is the High court, this is bound by all of the above and binds all courts below. The High court is popilit Into 3 divisions, The aveens bench, the chancery and the family alivision. The courts under the
	High court include the crown court and the magistrates and also the privy council. They all are bound by above courts.

There are 4 binding elements in
precedent. These elements are, the
material statement facts, Ratio decidenci
(reasons for the decisions), obiter
aucta (things said by the way)
and the verdict.
The house of lards practice
Statement. Before 1966 the House of
lords was bound by its own
previous decision unters made
her incurrium cushen its right to do
So) so if it is made per
incumium or if a mustake has
been made they can overrule the
been made they can overrule the decision & Anderton 1988 got overruled
by Shivpuri 1997. This cuso happend
IN KVR 1991.
There are 5 ways in which
we can avoid awkward precedent.
By Overruing, when a higher court overruses a Tower court, Following,
overrutes a Tower court, Following,
when precedent made coulter is
followed, Distinguishing, when lower
court points to the mortandi
differences in the civilitation of
different principles, Departing, when court can depart from there
court can depart from there
navious decision and reverse, when
a higher court can change the
decision of the lower court.
Section 2 of precedent stocks
that judges must 100k out case
raw when deciding.
cases that have developed
precedent unclude bonoghue 1932
Gillick 1987 and fixpatrick 1990.
There are many advantages

Cwestiwi	
	and ausadyantages of precedent. The
	and ausadvantages of precedent. The advantages being it gives impartial rights, its gives just rights it gives
	rights, its gives just rights it gives
	promotes certainty. The discovantage of precedent would be that it
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	Of precedent would be that it
	rigid and lostly is also very any democracy.
	rigid and lostly is doesn't give
	any democracy.
	Entro stand by a previous decision).
	it gives them a chance to gave their decision if it is neccessary or in pest interests.
	it gives them a chance to
	gave their decision it it is
	neccessary or in pest interests.
	3

(6a)	The European Convention of Human	
,	Rights was a body set up after	
2	WIN . HO It was Set up in 1950	
	to because of all the Atrocities	
	committed in WWII.	s a
	The ECHR had 3 oums in	

which they worked towards. The
I tist cum was the identification of
a number of mounty civil and
political rights that were centeral of
the democracy and civil society.
The second clim hernor to impose
an objection on each state to
an objection on each state to Secure the rights of their own
Jurisouction. The final oum was to
get their own machinery for the
enforcement of the rights.
As well as there being
aims there were also rights. There
rights, threse some of these articles
When Actions a - ciant to is to
Were Article a - right to life, Article & right to privacy, Article 10 right to freedom of expression.
10 right to freedom of evaporion
Some of the rights had
restrictions, theretore Afficie 10 the
19nt to freedom of expression
can be withhetor it necessary in
the interests of national security.
The human Rights court can
only hear an individuals claim
if it is recognised by the State
as a breach of the individuals
human nghts. The UK alan & bring
the convention rights into the domestic law until 1998. Until
then a citeren would have to
00 to the Turn on Court
00 to the European Court 4. When taking a claim. Pretty VVK 2002. The human Rights
2002. The human Rights
act gives positive rights not just Tiberties. The Rights given under
Tiberties. The Rights alven under
the ECHR were directly

	enforceable to the UK without any
	need to apply to go to
	Strappourd section 7.
	Section 2 of the human Rights
	Act 1998 states that judges must
	FOLLOW case law to help them make
	decicions that are relevant to the
	case - some say section 2 gives a
	Weak obligation to judges. Section 3 States that as far
	<u>Section 3 States</u> that as far
	On It is possible to do so' legislation
	must be read and given effect
	in a way which is compatible.
	with the convention rights.
	When a suage interpreting
	laws, he must be mindful of
	what the person is arguing. It
	the persons human rights cannot be upheld then higher courts are
	able to usue a déclaration of
	incompatibility whater Section 4.
	Bellenger 2003.
18	Section 6 States that it is
	unlawful for public authorities to
	act in such a way that is
	not compatible with the European
	consention rights. Public bodies
	include, local/centeral government,
	police and NHS etc. The meaning
	of public bodies was discussed
	in ponoghue 2001.
	THERE are also linitations
	to the HRA 1998, they include that
	regustation that is not compatible with the European convention
	CLOUTE ALE STILL VICTOR AND ALLOWS
	rights are Still Valla and Judges can't

	Strike them out. However if courts find out it is not compatible they can issue a declaration of incompatibility six. Bellenger 2003. There are Both advantages and disadvantages of the HRA an advantage being its profects circlens lights. A disadvantage being it isn't flexible.
6b).	Precedent is known as stare decisis (x) Precedent erorco promotes conformity, fairness and certainty.
	Precedent is concerned with the court Hierarchy. The Supreme Court is the highest appeal court for Civil and criminal law it binds all rourts below and was
	Ou courts below and was pound by its own decision per Condon tramways 1979. The next Court is the court of appeal. the court of appeal & is hound
	has the authority the only
	bound where the previous decision resulted in the incorrect conviction of a defendent RyTaylor 1990. The next court is the High Court, this is bound by all of the above and binds all courts below. The High court is split
	the chancery and the family
	High court include the crown court and the magistrates and also the privy council. They all are bound by above courts.

There are 4 binding elements in	
AMERICAN THERE INCOMENTA A ME THE	\neg
precedent. These elements are the	Ni Ni
material statement facts, Ratio deciden	1
(reasons for the decisions), obiter	
aucta (things said by the way)	
and the verdict.	
The house of lards practice	
Statement. Before 1966 the House of	
lords was bound by its own	
previous decision unters made	
per incurrium Cwhen its right to do	_
so) so if it is made per	
incumium or if a mustake has	
been made they can overrule the decision of Anderton 1985 got overrules	2
OPECISION & Anderton 1985 got overrules	1
by Shivpuri 1997. This cuso nappend	
by Shippuri 1997. This cuso nappend in RVR 1991.	
There are 5 ways in which	
There are 5 ways in which we can avoid awkward preceden-	d
By Overrying, when a higher court	
overrutes a Tower court, Following,	
when precedent made earlier is	
FOLLOWED, DISTINGUISHING, When lower	
court points to the material	
differences in the application of	
allinear actually then the	
Out can depart from there	
previous decision and reverse, when	
higher court can inchar the	
decision of the lower court.	
Section 2 of precedent states	
that judges must look out case	2
raw when deciding.	
cases that have developed	
precedent include Donoghue 1932	
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The European Convention of Human Rights is the basic
post base of the Human Right Act. 4 contains articles
that are extremely influential on British law Prior to the
Human Right Ad , British whizens could we the ECHR
and take their case to strasbourg where the European
Court of Human Rights is The ECHR is made up of
residual freedoms
Prior to the Human eight Act whiten followed the
precedents of the ECHP. However under the HRA We
now have many of our own right There rights can be
absolute, qualified or limited. The ECHIR is the base
10 S.3, S. 4 and S.10 of the HRA.
S.3 allows a judge in UK court to interpret the words of
a statute as for compositive with the law However, if the
words change the meaning of the law then it is incompatible.
5.4 allows a judge in the ea court to issue a declaration
of incompatibility is the low is incorrect, they can then
issue a f. put the affencing law on a fast track
procedure under s. 10. This sends the appending law
b The judge must use the "bad" law on the case in
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The European Convention of Human Right is
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Precedent altows for a judge to joulou a previous 6 (b) case that has very similar factors. There are different types of precedent, which are binding persuasive original. Each judge is bound by the precedent that the court above them. All of the UK courts we the precedent set in the European Court of Justice When deciding what to do with a case, a the judge has four options available when it comes to precedent, they can either follow, distringuish, overrule or reverse Fir The first option to joulow is when the judge simply follows the past precedent. This occus when the facts the cases are extremely similar This type of operation does not allow for any judicial creativity as the judge not suggesting any amendments. However's shows that the judge has respect for the decision of the court above him/her. The second option available is distinguish. This is when eer a judge can distinguish between certain factors of the . They can then implement their own decision. This option opinion gives judges more judicial creativity than to just loulou precedent. They are able to implement their ann pr decisions. The option of distinguish can be seen in the case of Ballour & Ballour and Merrit V Merritt. The next option available to a judge is to overrule the past decision. However this eff option differ in the Supreme Court and court of Appeal. The Supreme Court has more creativity than the Court of Appeal because they are able to overrule, with the permission from the House of Lords. In the case of London Street Trameways v London County Council is was held short with the Practice Statement they could overrule 'where it appears right to do so? However when Lord Denning thed to issue a Practice Statement for the Court of Appeal Civil División in Davis V Johnson if was reversed by the House of Lords. This telk us that the court of appeal does not have as much judicial creativity and freedom as the coast grapped Supreme Court. The fund opinon is to reverse the past precedent. This

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