



# Conservatives and the European Convention on Human Rights

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## EXECUTIVE SUMMARY

The ECHR and the HRA has long been divisive in the Conservative Party. Successive Conservative manifestos have suggested that the HRA should be scrapped or amended. The paper explores this issue and the implications for the UK.

The ECHR is substantially the product of UK legal and political thinking and derived from UK traditions and concepts of liberty and democracy. It's creation and development in its early years was supported by successive Conservative Governments in the 1950s and 60s.

Although a series of initiatives were established to consider the issue, and despite a manifesto promise to act, nothing has happened. This is because the benefits of staying an adherent to the ECHR outweigh any possible benefit of leaving it or of putting the UK in a position of incompatibility with it.

The ECHR has been a soft power success for the UK, building on a long tradition of treaty making with international partners to improve the behaviour of states towards their own citizens and those subject to their power. It has stopped practises such as state discrimination against children on the grounds of illegitimacy, the criminalisation of homosexuality and has placed positive obligations on states to stop People Trafficking.

It would be wrong to say all is perfect with the Court. Reasoned criticisms have been and are made, most notably by Lord Sumption who called for reform from within. The Court has at times failed to respect national differences of interpretation of the ECHR which should be allowed. Leaving the ECHR, or trying to uncouple the UK from it, raises difficult constitutional issues in respect of devolution and will make any deal with the EU on data sharing or other security co-operation impossible. In the context of Northern Ireland, adherence to the ECHR and its incorporation are requirements of the Belfast/Good Friday Agreement.

Leaving the Convention would have a seriously detrimental impact on member states with poor human rights. While judgments of the European Court of Human Rights are at times hard to enforce, most are eventually observed. Countries with poor human rights records have sought to justify non co-operation with international tribunals by invoking the UK ambivalence towards the ECHR as justification. In contrast, the UK's stand on Abu Qatada, where we observed the Court's refusal to allow us to deport him to Jordan, led to major improvements to the Jordanian criminal justice system which then enabled deportation to take place.

It would be better to stop looking for ways to try and remove ourselves from our ECHR obligations or change the HRA and concentrate on making it work better. There are unlikely to be any tangible benefits from leaving and many downsides. The UK enjoys a good reputation for human rights. The Council of Europe which created it will remain an important forum for us to exercise leadership in Europe post Brexit and of which we should take advantage.