ECHR myths exploded in damning report show why UK must now leave this dysfunctional body

Paper written by the Rt Hon Lord Peter Lilley is a must-read for those who prefer facts to fiction

CIBUK extracts the most revealing parts of this shocking exposé of sovereignty subverted

At 9.00am this morning the Rt Hon Lord Peter Lilley, former Cabinet Minister under both Thatcher and Major, will deliver a speech likely to infuriate Sir Keir Starmer and his wayward Attorney General Lord Hermer. In it he tears apart some of the received wisdom about the European Convention on Human Rights. He shows that leaving the ECHR does not breach the Good Friday Agreement, nor our EU trade agreement, and nor does it put our long-established human rights at risk.

Having been given an advance copy of Lord Lilley's paper, Facts4EU and Stand for Our Sovereignty summarise some of the most compelling facts and arguments, which go a long way to delivering the coup de grace for the UK's continued membership. Whilst his natural inclination would be to try to amend the current arrangements, Lord Lilley's reluctant conclusion is that this is neither possible nor desirable.

Summary

“Britain and the ECHR:
Past Myths, Present Problems and Future Options”

Published by the Centre For Policy Studies, Wednesday 09 July 2025

Some key findings

- Churchill never allowed the submission of the British government nor individuals to the ECHR’s rulings
- The ECHR was not a ‘British creation’
- Successive Prime Ministers have sought to amend or quit the body, temporarily or permanently, whether Labour or Conservative
- The UK did not submit to its sovereignty until 1966 under Harold Wilson, without any parliamentary debate
- The French didn’t ratify the ECHR until 1974 and refused to give its citizens the right to petition the court until 1981
- Staying in the ECHR risks undermining the public’s faith in the rule of law and the judicial system
- Withdrawal would not breach the Good Friday Agreement or our trade agreement with the EU
- Leaving isn’t a panacea but it’s a necessary start to restore parliamentary sovereignty
- The fundamental rights of the British people will be unaffected
- The UK will join other countries with most-respected human rights records: Australia, Canada, New Zealand

This is a thoughtful, well-researched and well-argued paper, intended to add to the debate on the UK's continued membership of the European Convention on Human Rights. Inevitably in some 45-odd pages, Lord Lilley is nuanced in his words and provides a great of detail.

We recommend reading the entire paper which can be found here, but for those with less time we are summarising the paper's conclusions below.

"Britain and the ECHR: Past Myths, Present Problems and Future Options"

Published by the Centre For Policy Studies, Wednesday 09 July 2025

The paper's conclusions

1. The 'creation myth' that the ECHR was a British invention which codified British rights and was enthusiastically adopted by Attlee and Churchill is flattering and reassuring. In fact, it was reluctantly ratified by Attlee only on condition that it had no jurisdiction in the UK. British people were not allowed to access the Court, and Britain refused to amend laws to conform to the Convention – a position immediately upheld by Churchill and his Conservative successors.

2. If the Convention simply codified British rights, its impacts should have been few, minor, and diminishing in number as UK law was brought into conformity with the Convention. In fact, the Strasbourg Court found the UK to be in violation of the Convention in cases which were numerous, serious and wide-ranging.

3. The Human Rights Act has meant fewer cases going to Strasbourg but far more cases being heard in domestic courts and tribunals.

4. The HRA was supposed to respect Parliamentary sovereignty since UK courts cannot require legislation to be annulled or amended, only declare it ‘incompatible’ with the ECHR. In practice, Supreme Court rulings on incompatibility override Parliamentary sovereignty because they are imbued with the power of the ECHR, to which appeal may be made and which governments are treaty-bound to obey.

5. Leading ministers from Tony Blair, Jack Straw and John Reid to David Cameron, Theresa May and Rishi Sunak have considered resiling from the ECHR in whole or part, temporarily or permanently.

6. The Strasbourg Court can overrule democratic legislatures. This was deliberate because Fascism and Communism had, or threatened to, gain power by democratic means on the Continent (though they had never gained a foothold in the UK). It was hoped that an international court would prove a barrier to any relapse.

7. In practice, authoritarian regimes willing to use torture, arbitrary arrest and suppression of free speech have chosen to leave the Convention or simply ignore its rulings.

8. The reason the ECHR causes more problems in the UK than in other states is because we look to Parliament to make the law (and amend it if the courts interpret or develop it in ways that do not reflect Parliament’s intentions or public values) whereas courts must apply it impartially. The idea of courts, let alone an international court, being able to create new laws, still less tell Parliament what laws it may or must pass, is alien.

9. Rights are never simple or absolute – they clash with other rights and legitimate objectives. Defining rights and

balancing them against other objectives involves intrinsically political decisions.

10. However, the rights in the Convention are so vague that courts – accountable to no one – are free, in fact obliged, to decide what the law should be on a huge range of important and intrinsically political issues.

11. Decisions about the ECHR should not be based on whether we like or dislike a majority of its rulings, any more than our belief in democracy should be based on whether we approve or disapprove of the electors' choices of government.

12. The key question is: are intrinsically political decisions – involving trade-offs between different objectives – best taken by elected governments subject to elected Parliaments, or by courts accountable to no one?

13. The major consequence of empowering courts to take fundamentally political decisions is that it politicises the courts. This is not the fault of judges – they are required to take essentially political decisions. But it will lead, and is already leading, to demands for political vetting of judges and to a loss of respect for the law and the courts.

14. It would be a tragic paradox if a noble experiment intended to reinforce our legal rights fatally undermined the rule of law itself. But that is the direction in which it is ineluctably headed.

15. For conservatives, reform or evolution are the natural first option rather than abrupt departure. The onus is on those who are reluctant to withdraw to propose concrete reforms which would tackle the central problem that empowering unaccountable courts to make law which overrides that of the elected Parliament, inexorably politicises the judiciary and undermines the rule of law.

16. So far, no reforms which tackle this problem have been

proposed and there is little appetite even for reforms which would seriously narrow the scope of the problem. Previous attempts at reform produced nugatory changes after many years of effort.

17. The only – tenuous – hope of achieving reform, barring the emergence of a pan-European consensus, would be for the UK to suspend its membership, or at least threaten to do so, unless or until substantive changes were implemented within a given timetable.

18. Withdrawing from the ECHR is possible while remaining in the Council of Europe, upholding the Good Friday/Belfast Agreement and complying with the Trade and Cooperation agreement with the EU.

19. The UK would need to continue to enshrine in Northern Ireland law the rights defined in ECHR. For the rest of the UK, if the Human Rights Act is retained, it could be revised to enable UK courts to rule on ministerial decisions and secondary legislation, including that of devolved administrations, but not to rule on primary legislation.

20. Withdrawal, should it be necessary, would put Britain in the same position as other common law countries like Australia, Canada and New Zealand who maintain the highest standards of human rights and freedoms without adherence to an international court. The suggestion that we would be like Russia and Belarus is puerile.

21. It is important to recognise that withdrawal may be necessary, but will not be sufficient, to tackle problems of illegal migration.

22. Any decision to withdraw, temporarily or permanently, should not be taken solely due to concern about court rulings on a single issue, but to protect the courts from the politicisation which inevitably follows from them being obliged to take intrinsically political decisions which should

be the responsibility of an elected Parliament.

Once again, we recommend reading Lord Lilley's paper in full. It is entitled: "Britain and the ECHR: Past Myths, Present Problems and Future Options"

Observations

The CIBUK, Facts4EU and Stand for Our Sovereignty teams would like to thank Lord Lilley for advance sight of his paper.

His principal concern is the danger to the public's respect for the law and for our judicial system if the current state of affairs is allowed to persist, and we do not disagree.

As an important contribution to the compelling arguments for resiling in full from the ECHR, however, we feel it also represents a damning indictment and that the formal six months' notice of withdrawal should be given forthwith.

There is of course no chance that Sir Keir Starmer will do this, particularly bearing in mind the extreme views of Lord Hermer, his Attorney General and good friend. What we shall be doing, despite this, is continuing to advocate in the strongest possible terms for the UK to leave the ECHR. We believe Sir Keir to be insecure and weak, and if nothing else this will pressure him to make concessions in other areas which may improve the country's overall position with regard to being a sovereign nation once again.

NOTES: Lord Lilley served in the Cabinets of Margaret Thatcher and John Major as Secretary of State for Trade and Industry

then for Social Security. He was Shadow Chancellor then Deputy Leader of the Conservative Party, with responsibility for policy renewal, until 2000. He stood down as an MP in 2017 and was made a Peer in 2018.

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