# ‘Replace discredited ECHR with British Bill of Rights’

So says legal journalist Torquil Dick-Erikson in an article for the Bruges Group which we re-publish in full below.

There are, he says, compelling arguments for leaving the European Convention on Human Rights irrespective of the small boats crisis. Citing individual case studies, he argues that there are wider issues at stake especially in relation to freedom under the law which the ECHR signally fails to protect.

By advocating a parallel British Bill of Rights in place of membership of the ECHR, the UK could maintain the moral high ground in its commitment to human rights without the risk of becoming a pariah in the eyes of the international community.

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## European Convention & Court of Human Rights

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**By Torquil Dick-Erikson**

### Other reasons for getting out

I have put together some material which I think should help to get the UK out of the ECHR completely and thus, also, enable us to stop the small boats. The failure to achieve this has been given as a major reason for the Tories’ forthcoming debacle.

There are plenty of people, even in Parliament, who are upset about the ability of the ECHR to stop the Rwanda flights, which are intended to discourage migrants from using the small boats. Suella Braverman proposed getting us out of the ECHR in toto, but this cost her her job. Instead, Rishi Sunak produced a Bill, now passed into law, which is supposed to allow the UK to override ECHR vetoes on small boats issues. Of course it will not, because we will still be subject to the rulings of that Court, and Rwanda passengers will be able to appeal to it. Moreover, the full text of the European Convention is incorporated into UK law, copied into the Human Rights Act 1998, and will thus be applied by British judges. ECHR Art. 46 – "Binding force and execution of judgments" is clear, no picking and choosing by the High Contracting Parties is allowed.

Scottish Law Lord, Lord Hope of Craighead, chaired the Committee which in 1999 examined the EU proposal for an embryo single criminal code for all member states – the Corpus Juris project, and firmly rejected it. This would have erased our rights to Trial by Independent Jury and Habeas Corpus, bringing the UK into line with the Napoleonic-Inquisitorial systems of criminal justice prevalent throughout continental Europe. Recently Lord Hope proposed an amendment to the Rwanda Bill, to the effect that the UK Parliament cannot in fact decree that Rwanda is and always will be a "safe country", since the land of Rwanda is not under British control and jurisdiction. This was passed by the Lords but rejected by the Commons, whose will thus prevailed. Doubtless this weakness in the Act can in future be used by the Courts, in the UK or in Strasburg, to annul its intended effects.

The trouble with all this is that so far, the **ONLY** argument which anyone so far has given as grounds to leave the ECHR is the small boats issue.

This weakens the case because a vast number of voters are actually sympathetic to the migrants in their small boats,

capsizing and drowning, in their search for a better life. Moreover, they think that scrapping the ECHR means "scrapping human rights" as such (as if our human rights had been gifted to us by the ECHR), as shown by a cringe-making skit starring Patrick Stewart. See https://www.youtube.com/watch?v=ptfmAY6M6aA&t=6s

Suella Braverman proposed leaving the ECHR in toto, but again, the only argument she gave for this was… to stop the small boats.

What I have done is to put together other arguments, with factual evidence, to show that the ECHR is *entirely* unfit for purpose. The list is hosted on the website of the Freedom Association: https://www.tfa.net/why_the_echr_is_not_fit_for_purpose

These facts and arguments need to be seen and debated in the mainstream media, especially since we are going into an election, where the ECHR will be under massive popular attention.

The fact is that it does not even do what it says on the tin. In particular, not only are its judges – against whom we have no right of appeal – the political nominees of 46 regimes, several with pretty dodgy human rights records in their own countries, but the Convention itself has no place for what we in the UK consider to be *the* basic human right without which all the others may in fact be trampled on.

This is the **right not to be subject to arbitrary imprisonment on little or no evidence for long periods of time (months, even years). We call this Habeas Corpus,** but it has scant place anywhere in continental Europe, or in the ECHR.

The arguments that I have put together should touch a far wider audience than the small boats issue.

Even the many English people who do welcome immigrants,

will *not* be pleased to learn that in Europe arbitrary arrest on the basis of flimsy clues and lengthy imprisonment "pending investigation" as happened to Andrew Symeou and many others, is all too common. It is considered "normal" in nearly all the European signatory states, and the ECHR does NOTHING to stop it. Article 6 merely hides behind the vague and ambiguous weasel words "reasonable time"…

For us in Britain a "reasonable time" of imprisonment prior to an evidence-based charge and appearance in open court is counted in hours or at the most in days (the absolute maximum is 28 days, and only in serious terrorism cases), For the ECHR it is months, and even, as in one landmark case, up to 5 years, justified by the ECtHR – since "detention facilitates the preliminary investigation" (details in the article).

Unfortunately, all those on both sides of the debate seem so far to have ignored the facts and arguments given in my piece.

I have seen no mention of the lack of Habeas Corpus in the ECHR anywhere in the MSM (except for one piece by me in the Daily Express online, ignored by all), as well as the fact that the Court, made up of judges from Rumania and Turkey and other places with dubious HR records, has handed down some highly perverse judgements. I recount some of these judgements in the article.

It was questioned by Lord Hoffman that the UK should have its human rights dictated to it by a panel of 46 political appointees of foreign states, numbers of which are not exactly paladins of human rights in their own jurisdictions. And when, some years ago, the Court tried to order the UK to grant voting rights to prisoners, to the dismay of the then PM David Cameron, now Foreign Secretary, causing him stomach upset, Lord Judge said this was an unwarranted extension of judicial power into the realm of constitutional law.

It should be noted that until Russia invaded Ukraine, it was a

member of the Council of Europe and it had a judge, appointed by Putin's government, on the ECHR court. The judicial persecution of Navalny which began years before, was not considered sufficient by the other members of the Council of Europe to remove Russia's status as a "guardian of human rights".

One MP who ought to be sensitive to these arguments is Dominic Raab, since amongst other cases I deal with in the article on the TFA.net website, there is that of his constituent Colin Dines, a retired British judge (nobody is exempt !) subjected to a totally unjust EAW from Italy. Raab says it "stuck not only in his memory but in his throat". I sent a complete report to him when he was Minister of Justice wanting to replace the ECHR with a UK Bill of Rights, but I suspect my Report may have escaped his personal attention, lying at the bottom of a pile of other papers, unread and ignored.

My arguments allow those advocating the UK's exit from this Court to stand on the moral high ground. Whereas if the only argument publicly debated is "to stop the small boats", they will be accused of turning away the poor migrants because they are "racist" who want to "scrap human rights" as such, because they are crypto fascists. Indeed, Suella Braverman was accused in like manner and Sunak demoted her because of it.

The danger now is that if the govt simply defies an order from the ECtHR to suspend a flight to Rwanda, the Council of Europe will say that the UK is in breach of its obligations as a signatory of the Convention and will decide to expel us. As they did with Russia. This would be a PR disaster for the UK as a whole. in the minds of millions worldwide we would be disgraced, for such is the undeserved prestige still enjoyed by the ECHR.

Surely it would be far better for the UK to take the initiative and itself pass an Act to withdraw from the Convention and the jurisdiction of the Court, giving reasons

such as those I list, to show that the Court itself is a sham and a fraud and not fit for purpose? Any reasons given **after** our expulsion would lose all credibility.

If these arguments are raised and debated in Parliament and in the mainstream media, they surely should not and could not be ignored. They could even have an effect on the result of the coming General Election.

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**About the author:** *For the last 35 years Torquil Dick-Erikson has specialised as a legal journalist in comparative criminal procedure. He is the author of "The European Constitution against the British Constitution", with a Foreword by Nigel Farage MEP, and in 2010 another booklet "The Coming Tsunami" about the very different systems of criminal justice and of policing that the UK might have thrust upon it from Brussels*

We thank the Bruges Group for their kind permission to re-publish this article which can be read in its original form here.

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