

## Human Rights after Brexit: Workshop report

A key initiative in the Conservative Party's 2015 manifesto was to repeal the Human Rights Act 1998. Part of the rationale for these plans was that it would help to 'break the formal link between the UK and Strasbourg', and allow UK courts to adjudicate human rights claims under a British Bill of Rights without reference to Strasbourg case law.<sup>1</sup> Following the political fallout from Brexit, whether or not these plans would go ahead was initially unclear. However, the new Secretary of State for Justice has since clarified that Government remains committed to this part of their manifesto.<sup>2</sup>

On 25 July 2016, a workshop was held at UCL to discuss these plans, and their implications in light of the UK's new political environment post-Brexit. This briefing summarises the key points of discussion, which were:

- the potential impact of Brexit on human rights in the UK
- the role of section 2 of the HRA and the effect its repeal might have on relations between the UK and the European Court of Human Rights

- the HRA and its relationship with Parliamentary sovereignty and judicial power
- the British Bill of Rights as an opportunity for losing and/or gaining rights.

### Overview of panel discussions

#### Panel I – The Big Picture: Brexit, the ECHR and Devolution

How human rights in Britain may be affected by Brexit the future of the UK's position as a signatory to the European Convention on Human Rights (ECHR) issues of human rights and devolution.

in the course of the UK actually extricating itself from the EU, it may be at risk of violating the ECHR rights of EU citizens currently living in the UK.<sup>3</sup>

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reasoning – and in particular the higher courts – can have a significant effect on Strasbourg decision-making.

there was a case for reform of the HRA, and that Brexit may have strengthened it.

Brexit may help to make the UK's relationship with the ECHR even more secure

## Panel II – Breaking 'the Formal Link' with Strasbourg

where Convention principles are applied by the domestic courts, it is likely that Strasbourg may be less willing to rejudge the case (

the UK's recent increase in success rates in Strasbourg seem to be in some way linked to the quality of its domestic reasoning on the ECHR.

national court

Further, it allows judges to solve certain problems of non-human rights compliance without further action needed to be taken by Parliament. E

Further, making legislation consistent, F

4. the introduction of the capacity to strike down legislation would be an important step towards ensuring that sufficiently robust remedies exist to deal with non-compliance with rights obligations. E

4. judges are often unable to make a declaration of incompatibility with regards to Government policy that may play a significant role in determining the form in which much of UK law is implemented.

6. If more of a rights culture could be embedded in public authorities, there would be less need for litigation and therefore for judges to be making decisions on human rights

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## Workshop format

### Introductory Remarks

10.30 - 11.00

### Panel I – The Big Picture: Brexit, the ECHR and Devolution

11.00 - 11.30

### Panel II – Breaking ‘the Formal Link’ with Strasbourg

11.30 - 12.00

### Panel III – The British Bill of Rights, Parliamentary Sovereignty and Judicial Power

12.00 - 12.30

### Panel IV – A British Bill of Rights as an Opportunity for Losing and/or Gaining Rights

12.30 - 13.00

### Closing Remarks

13.00 - 13.30

## Attendees

10.30 - 11.00

11.00 - 11.30

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