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**The Place of Human Rights in the Foreign Policy of
Cameron's Conservatives: Sceptics or Enthusiasts?**

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Introduction¹

During David Cameron's tenure as leader of the Conservative Party (2005-2016) a growing body of academic literature emerged analysing his government's approach to foreign policy. In the literature topics such as the Strategic Defence and Security Review (SDSR) (Martin, 2015; 2011); Cameron's EU policy (Lynch, 2015; 2012; 2011); the ideational context (Beech, 2011; Dodds and Elden, 2010) and Cameron's Conservatives and humanitarian intervention (Vickers, 2015; Beech & Oliver, 2015; Daddow & Schnapper, 2013; Gaskarth, 2013) have been critically examined. However, there are gaps within the academic literature particularly on the place of human rights² in Conservative foreign policy. The article seeks to address that gap and to explore the contested role of human rights in Conservative foreign policy thinking. It will examine the dilemmas for Conservatives of the growing emphasis attached to human rights in foreign policy - especially related to humanitarian intervention³ - and within the context of the difficulties significant sections of the party have with the system of rights adjudication contained in the European Convention on Human Rights (ECHR).

To do so, an interpretive mixed methodological approach is utilised. Bevir, Daddow and Hall define the interpretive approach as one which:

...concentrates on the beliefs of various policy actors, the meanings of their actions, and, crucially, explains the beliefs by locating them in historical traditions and as responses to dilemmas (Bevir et al, 2013: 168).

In the article, interpretivism includes hermeneutic textual analysis of speeches by Cameron, former Foreign Secretary William Hague and former Attorney General Dominic Grieve together with elite semi-structured interview material taken from interviews with former Conservative Foreign Secretaries Lord Carrington, Lord Howe of Aberavon, Lord Hurd of Westwell and Sir Malcolm Rifkind. Requests for interviews with Sir John Major and Hague were declined. The benefit of the elite interview material is that it brings to light previously

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4 ungathered data on the topic, and because Thatcher and Major's Foreign Secretaries maintain
5 a broadly similar set of assumptions about the traditions and ideas informing Conservative
6 foreign policy (citation removed), the interviews act as a means to compare and contrast the
7 attitudes of Cameron's Conservatives on the role of human rights in a liberal Conservative
8 foreign policy. Furthermore, the interview material aids the researcher in the task of situating
9 the study of Cameron's Conservative foreign policy in an historical context.
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17 The focus of the article is exclusively on the Conservative approach to foreign policy from
18 2005-16. In this period Cameron was Leader of the Opposition; then presided as *primus inter*
19 *pares* over a Conservative-Liberal Democrat Coalition; and after the 2015 general election he
20 led a majority Conservative administration. He resigned in the wake of the Leave vote in the
21 referendum on the United Kingdom's continued membership of the European Union. The
22 reason for the sole focus on the Conservative Party is because the Liberal Democrats had a
23 negligible role in setting British foreign policy during the Coalition. Whilst the partnership
24 between Cameron and Nick Clegg was possible due to a significant degree of overlap in
25 economic and social liberalism (Beech, 2015) they and their respective parties were at
26 variance on defence of the realm and foreign policy. It is palpably clear when one compares
27 the policy statements on defence and foreign affairs in the 2010 Conservative Party and
28 Liberal Democrat manifestoes (Conservative Party, 2010; Liberal Democrats, 2010). Under
29 the Coalition the Conservatives dominated the generation of foreign policy. For example, the
30 Liberal Democrats had one out of ten Ministry of Defence junior ministers (Nick Harvey),
31 one out of fourteen Foreign and Commonwealth Office junior ministers (Jeremy Browne) and
32 two out five Department for International Development junior ministers (Lynne Featherstone
33 and Baroness Northover) (Priddy, 2015).
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50 The article argues that during Cameron's tenure an observable dichotomy was apparent
51 between a tradition of human rights scepticism at home, in relation to the ECHR and the
52 jurisdiction of its court, and a developing approach of human rights enthusiasm abroad.
53 Cameron's Conservatives were confronted by the reality that globalisation has led to the
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4 internationalisation of foreign policy problems including the dilemma caused for state actors
5 when another state is responsible for human rights abuses and violations within its own
6 territory. As such, it is asserted that Cameron's liberal Conservative foreign policy whilst
7 sceptical towards the regime for the adjudication of human rights contained in the ECHR,
8 particularly its court (ECtHR) based in Strasbourg as it pertains to the UK, was willing to
9 commit blood and treasure to uphold human rights abroad as the intervention in Libya and
10 the thwarted intervention in Syria demonstrate. The article begins by outlining the rise of
11 human rights and international human rights agreements, then moves on to an evaluation of
12 the changing approach to human rights in Conservative foreign policy - through the lens of
13 the ECHR and humanitarian intervention - before examining the scepticism of the
14 Conservative's domestic human rights agenda with particular focus on the Human Rights Act
15 (HRA) and the proposed British Bill of Rights (BBoR).
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28 **The Rise and Rise of Human Rights on the International Stage**

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32 In May 1997 the then Foreign Secretary, Robin Cook emphasised human rights as a strand
33 within UK foreign policy. He was reflecting the fact that over the past fifty years human
34 rights, across the globe, had established themselves in the words of one scholar, as the
35 '...coin of the normative realm, the lingua franca of moral and political claim making'
36 (Ingram, 2008: 41). However, who could be against the idea of human rights? If one idea is
37 capable of capturing the moral and political zeitgeist of our late modern world the concept of
38 human rights is, in many ways, that idea. 'Ours is the age of rights' (Henkin, 1990: ix)
39 declared the American legal scholar Louis Henkin in recognition of the pervasiveness that
40 human rights discourse had acquired in the post-Second World War era.
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51 Such pervasiveness has manifested itself in a number of legal, constitutional, social and
52 political ways. Firstly, in legal terms, there has been a substantial increase in international
53 human rights treaties and agreements (Alston & Goodman, 2013). The United Nations
54 Declaration of Human Rights (UNDCR) created in 1948 is the original agreement. It was
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3 followed by the ECHR which was established in 1950 by the Council of Europe - with the
4 United Kingdom an original signatory - active since 1953. With its own Court to adjudicate
5 on questions of human rights violations since 1959, the ECHR became Europe's preeminent
6 human rights agreement. Secondly, in constitutional terms there is a growing tendency for
7 states to enshrine these individual human rights in the form of a constitutionally entrenched
8 charter of rights to be interpreted and applied by the judiciary (Hirschl, 2004). In 1966, the
9 Wilson Government signed the UK up to accepting the right of its citizens to bring a case
10 before the ECtHR and to be within the Court's jurisdiction. This was renewed every five
11 years. On 1st November 1998, Protocol 11 to the ECHR was implemented and it proved to be
12 a significant restructuring. Prior to this the right of individual petition to the court and the
13 court's jurisdiction were something that a State signed up to voluntarily. Since Protocol 11,
14 membership of the Council of Europe and being a signatory to the Convention has meant
15 compulsory acceptance of the jurisdiction of, and the right of citizen's individual petition to,
16 the Court. The Labour government led by Tony Blair ratified the rights of the ECHR in
17 statute as the Human Rights Act 1998. Thirdly, in political terms, what can be increasingly
18 observed is the way in which individuals and communities deploy the language of human
19 rights to make what are essentially political claims about their respective needs, interests and
20 entitlements and to articulate a vision of what human beings require to live a conception of
21 the good life (Dworkin, 1978; Shue, 1996). Fourthly, alongside these legal, constitutional and
22 political manifestations, in social terms, there has also been the rise of international human
23 rights NGOs involved in monitoring the implementation of international human rights
24 obligations, reporting on alleged human rights abuses and lobbying for more effective
25 international and national human rights protections (Neier, 2012).
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49 Despite the pervasiveness of human rights in our political, philosophical and legal discourse
50 many doubts about their philosophical basis and practical outworking still persist at a
51 practical and theoretical level (Douzinas, 2000). Whilst fundamental disagreement may exist
52 over what is meant by the term 'human rights', they are, arguably, an ever-present feature of
53 contemporary political discourse with long lists of political, legal and moral claims made
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4 using the language of rights. However, it is beyond the scope of the article to explore these
5 debates in greater detail nor will the article seek to advance a definition of human rights. The
6 article accepts the proposition articulated by the historian Mark Mazower that, ‘...whether
7 rhetoric or reality, human rights are a global phenomenon’ (Mazower, 2004: 379). In other
8 words, and irrespective of a range of views, as Richard Rorty puts it, human rights have
9 become a ‘...fact of the post-Holocaust world’ (Rorty, 1993:72). Much of the scholarship
10 tends to consider 1948 and the UNCHR as a conceptual year zero for human rights. Anna
11 Gear who focuses on how the project of international law is framed by the UNDHR as the
12 foundational framing document states that it:
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22 ...functions as a particularly potent form of framing, for it selects aspects of perceived
23 reality, making them not just salient but symbolically central to the entire
24 philosophical, moral, juridical order designated by the term ‘international human
25 rights law’ (Gear, 2012:18).
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32 In many ways international law has been the primary factor in pushing human rights towards
33 the normative place it has acquired in contemporary political discourse. It has played an
34 extremely significant role in shaping the form and content of contemporary human rights
35 discourse but one should be careful to avoid the presupposition that widespread agreement
36 exists about the nature and content of rights simply because certain rights have been
37 enunciated in international human rights treaties. As Griffin puts it, ‘...widespread doubts
38 about certain reputed civil rights, objections to the lavishness of some welfare rights...have a
39 rational force that cannot be countered simply by showing that these rights appear in
40 international treaties.’ (Griffin, 2008: 204) Moyn has questioned the orthodoxy of human
41 rights historiography arguing that it was not until the 1970s that the contemporary idea of
42 human rights crystalized and gained traction (Moyn, 2010). In other words, he rejects an
43 orthodox historiographical account that traces the contemporary idea of human rights to the
44 enlightenment and as a response to the revulsion of the Holocaust in the post-Second World
45 War period.
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Having considered the role human rights have come to acquire in the post-war era, in particular international treaties, agreements and law, the article moves to consider the role of human rights in the foreign policy of the Conservatives under Cameron. It is contended that the expression of human rights in foreign policy can be analysed through the policy approach to humanitarian intervention.

Humanitarian Intervention in Conservative Foreign Policy

Humanitarian intervention is now an established facet of Britain's global role. It remains controversial, highly dangerous to both human life and Britain's reputation as a responsible member of the international community. Few states possess the requisite military sophistication and/or the political appetite for humanitarian intervention. Despite the significant down-grading of Britain's naval capabilities (Martin, 2011) and the catastrophe of Iraq, Her Majesty's Government led by Cameron remained committed to this aspect of Britain's global role (Cabinet Office, 2010; HM Government, 2010b).

Cameron and Hague framed Conservative foreign policy around the idea of liberal Conservatism. Cameron first introduced this theme in a speech in 2006 when he argued:

I am a liberal conservative, rather than a neo-conservative. Liberal - because I support the aim of spreading freedom and democracy, and support humanitarian intervention. Conservative - because I recognise the complexities of human nature, and am sceptical of grand schemes to remake the world. A liberal conservative approach to foreign policy today is based on five propositions. First that we should understand fully the threat we face. Second, that democracy cannot quickly be imposed from outside. Third that our strategy needs to go far beyond military action. Fourth that we need a new multilateralism to tackle the new global challenges we face. And fifth, that we must strive to act with moral authority (Cameron, 2006b).

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5 Here Cameron sets out his approach to foreign policy importing aspects of liberalism into the
6 Conservative realist tradition. In foreign policy, as in social policy, his approach to politics
7 was an admixture of influences.
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12 The Foreign and Commonwealth Office led by Hague expressed their support for the
13 international human rights regime and campaigned to be a member of the UN's Human
14 Rights Council for 2014-2016 arguing that the UK is 'committed to a strong, effective
15 international human rights system.' (FCO, 2013) Furthermore, Hague emphasised the
16 importance of the international rule of law in this speech from 2012, *International Law and*
17 *Justice in a Networked World:*
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26 The first is that justice and international law are central to foreign policy. My second
27 reason for giving this speech is our growing reliance on a rules-based international
28 system. We are far more vulnerable today than we ever have been to threats that no
29 one nation can address alone, while our economic ties to other nations grown ever
30 more complex. So we depend more and more on other countries abiding by
31 international laws and agreements. (Hague, 2012)
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39 Hague's speech emphasises the imperative of an international legal framework for effective
40 foreign policy. In his view the international system is becoming increasingly anarchic and
41 interdependent. As set out in the previous section the international legal framework is
42 significantly shaped by the pervasiveness of human rights.
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48 It is our contention that a commitment to humanitarian intervention is rooted in Cameron's
49 belief in Britain as a responsible power. The early twenty-first century has witnessed the
50 increasing internationalisation of foreign policy problems. The nature of globalisation has
51 forced states to co-operate more closely on issues pertaining to foreign policy where once
52 they would have been reluctant to do so. The threat from Islamic fundamentalism in the form
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4 of ISIS and Al Qaeda; failed states; financial shocks; and energy insecurity, nudge policy-
5 makers together. It can be evidenced by the rise in elite-level international summits. The
6 internationalisation of foreign policy problems also includes the subjects of our discussion:
7 human rights and humanitarian intervention. Instances of human rights violations and, in
8 particular, attacks upon people groups which can be interpreted as ethnic cleansing, and as its
9 scale grows, can be classed as genocide occupy much time and energy within the
10 international community. The complex nature of these attacks which are often rooted in
11 tribal, ethnic or religious conflict is manifold. It makes deciding whether to intervene and
12 how to intervene the most serious of questions for states especially those who are deemed to
13 be responsible powers such as the United Kingdom.
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24 The pursuit of the liberal Conservative global view was not affected in any way by the
25 formation of the Coalition with the Liberal Democrats in May 2010. In a co-authored
26 Foreword to the Coalition's National Security Strategy Cameron and Clegg stated:
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32 Our national interest requires us to stand up for the values our country believes in –
33 the rule of law, democracy, free speech, tolerance and human rights. Those are the
34 attributes for which Britain is admired in the world and we must continue to advance
35 them, because Britain will be safer if our values are upheld and respected in the
36 world. To do so requires us to project power and to use our unique network of
37 alliances and relationships – principally with the United States of America, but also as
38 a member of the European Union and NATO, and a permanent member of the UN
39 Security Council. We must also maintain the capability to act well beyond our shores
40 and work with our allies to have a strategic presence wherever we need it. (HM
41 Government, 2010b:4)
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52 Here Cameron and Clegg's intellectual architecture follows Gordon Brown, and before him
53 Tony Blair. They too believed that Britain's status conferred advantages and necessitated
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4 global responsibilities. Cameron understood that in an era of increased internationalisation of
5 foreign policy problems Britain must be prepared to engage the military instrument.
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9 Cameron and Hague's approach to British foreign policy was shaped by the changed geo-
10 politics of the post-Cold War era with its multiple poles of power, influence and threat.
11 Naturally the execution of foreign policy was understood primarily in terms of national
12 interest. However, in a time when the Western world is defined in part by its commitment to
13 human rights these self-styled liberal Conservatives could not help but view British foreign
14 policy through a lens of universal human rights. They have been affected by the context of
15 governing in a generation influenced by the discourse and experience of humanitarian
16 intervention. Nonetheless, Cameron and Hague acted volitionally. They chose to value the
17 human rights of foreign nationals in foreign countries very highly. Their commitment to
18 humanitarian intervention in defence of such human rights was initially tested during the
19 conflict in Libya (Beech & Oliver, 2015) and then, after great deliberation, Cameron argued
20 that military action be taken for the sake of protecting the human rights of the people of Syria
21 against the Assad regime who had used chemical weapons (Cameron, 2013a).⁴ This, of
22 course, did not come to fruition as Cameron opted to follow or, to some extent, to activate the
23 convention announced by the Brown Government in its Green Paper *The Governance of*
24 *Britain* (HM Government, 2007). Given the effect of the long war in Afghanistan in the
25 public's consciousness; the debacle of Iraq; fiscal pressures; and the caution inherent in the
26 Conservative foreign policy tradition, Cameron put his case for humanitarian intervention in
27 Syria to the House of Commons on 29th August 2013 and lost by 285 votes to 272. From this
28 we can observe the tempered road to humanitarian intervention taken by Cameron's
29 Conservatives in Syria. In part a tonic to a decade of British interventions authored by the
30 longest serving Labour Prime Minister (Blair); which was ultimately stymied by a new
31 political convention set out by Cameron's Labour predecessor (Brown); and then, utilised to
32 veto his foreign policy by the then Labour Leader of the Opposition (Ed Miliband).
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4 We argue that Cameron's Conservatives did accept that Britain is committed to the principle
5 of humanitarian intervention to safeguard human rights of foreign nationals (Cameron,
6 2011a, 2011b, 2012; Hague 2011; 2012). It is a critical marker. It marks Cameron and Hague
7 as displaying elements of idealism and realism. The realism followed in the steps of post-war
8 Conservative politicians whose focus was outlined purely as national interest pragmatism
9 during the Cold War. The idealism was a step-change for Conservative foreign policy. Here
10 Cameron is more similar to Brown, and to an extent Blair, than to fellow Conservative Prime
11 Ministers such as Edward Heath, Margaret Thatcher or John Major. As a result of our
12 primary source data in the form of elite, semi-structured interviews we can see that Hague's
13 Conservative predecessors at the Foreign and Commonwealth Office held sharply different
14 assumptions which emanated from an exclusively Conservative realist tradition. This is in
15 part generational and contextual but not exclusively. It is also partly because, as the interview
16 material demonstrates, Lords Carrington, Howe, Hurd and Sir Malcolm Rifkind prize
17 national interest pragmatism above other values. Which is to say, that in their hierarchy of
18 values, realists rank national interest pragmatism as the primary ordinal. As Sir Malcolm
19 Rifkind argues:
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36 Certainly until the last 30 to 40 years the assumption would be that you do not
37 interfere in the internal affairs of other countries other than in the most exceptional
38 circumstances. As a general principle you shouldn't do so unless your own security
39 and national interest is at stake. That was taken as an almost automatic assumption
40 until recent times. I think the debate however has moved on...The modern
41 Conservative Party today would have no difficulty with the view that we should use
42 diplomacy and foreign policy and our political institutions to advance the cause of
43 human rights, democratic government and the rule of law in other countries. As a
44 principle, as a universal value, I think modern Conservatism would have no difficulty
45 with that.... If you go to war as we did in the Falklands because the Argentineans had
46 invaded, then you know what your objective is - to recover the freedom of these
47 islands and get the Argentineans out - once you'd done that the war had succeeded.
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4 Likewise, the war to liberate Kuwait, the first Gulf War; the purpose of it was quite
5 clear, quite specific, quite finite, if on the other hand you have the case of Kosovo and
6 Iraq a sort of general objective of human rights, protection and prevention of
7 persecution and enhancing democracy then you're stuck. (Interview, Malcolm
8 Rifkind, 23 November 2009).
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15 When asked about the principle of the doctrine of humanitarian intervention⁵ and whether it
16 is compatible with the traditions and ideas of British Conservatism, Lord Hurd of Westwell
17 stated:
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22 I think most Conservatives would approach the *ideal* with a certain suspicion and
23 scepticism which is not to rule it out in all cases. There will be cases when the
24 conditions apply but they will be quite few. You get moments of high indignation;
25 Gladstone on the Bulgarian atrocities, Britain over the invasion of Belgium where
26 people really get worked up in to fever pitch but they are quite rare. On the whole
27 we're a cool-ish country. (Interview, Lord Hurd, 14 December 2009).
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36 In answer to the same question Lord Howe of Aberavon suggested:
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40 I'm not sure they ever have espoused doctrines like that. The idea of becoming a
41 unique propagator of democratic government with a unique capacity to succeed
42 therefore justifying regime change is gravely misleading. The United Kingdom
43 created more democracies than any other country has had hot breakfasts and we've
44 seen so many of them crumbling that it's a very sensitive banner to wave or brandish.
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48 It is much more difficult than it seems. (Interview, Lord Howe, 14 December 2009).
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53 Furthermore, when Lord Carrington was asked about this topic he responded:
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4 Poking your nose in other people's affairs? No I don't think it does. There are
5 obviously circumstances like Sierra Leone when you have to do that sort of thing but
6 I'd be very careful about it. Leaving aside WMD I thought it was a great mistake to
7 get rid of Saddam Hussein. Saddam Hussein was a perfectly horrible creature but
8 once you start that sort of thing where does it stop? You know someone might
9 actually come and do it to us. I think it is a mistake. (Interview, Lord Carrington, 11
10 January 2010).
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19 The responses of the four former Conservative Foreign Secretaries suggest that they do not
20 consider humanitarian intervention to be an established tradition within Conservative foreign
21 policy and imply national interest pragmatism as the foundation for foreign policy decision
22 making. From the examples that Rifkind gives foreign policy intervention in the post war era
23 had not been justified on humanitarian grounds until the Bosnian War (see Beech & Oliver,
24 2015). The Conservative Governments of John Major were generally antagonistic towards
25 humanitarian intervention in the Balkans Conflict but, in the final analysis, became reluctant
26 and hesitant interventionists (ibid). For Rifkind the recovery of territory and liberty for
27 Crown subjects - as was the case with the Falklands War - and the liberation of a state from
28 the aggression of a neighbouring state which had the potential to destabilise an entire region,
29 as with the Gulf War, were appropriate actions of Conservative foreign policy in the tradition
30 of national interest pragmatism.
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43 In contrast, in following the foreign policy thinking of Blair and Brown on the issue of
44 human rights in British foreign policy, Cameron was moving from the conservative realist
45 tradition to a form of idealism in foreign policy thought. It can be seen clearly in the
46 adoption of humanitarian intervention as a policy of the administrations that he led. The
47 operation of humanitarian intervention as an aspect of foreign policy is a step away from
48 previous conservative foreign policy. It is evidenced when one compares and contrasts
49 interview data from Lords Carrington, Howe, Hurd and Sir Malcolm Rifkind with the words
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4 and actions of Cameron's administrations vis-a-vis Libya and the intended intervention in
5 Syria.
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9 However, a move from a realist tradition to a more idealist approach to Conservative foreign
10 policy, as discussed in the context of human rights, was at odds with the problems that human
11 rights caused domestically for the Conservatives under Cameron. The article argues that
12 during Cameron's tenure there was a dilemma in pursuing the liberal Conservative foreign
13 policy agenda and increasing scepticism about how international human rights agreements
14 impacted domestic policy. The disdain for the HRA and the jurisdiction of the ECtHR
15 threatened the platform on which the liberal Conservative foreign policy in general and
16 humanitarian intervention in particular was founded.
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26 **Towards a Scepticism of the Domestic Human Rights Agenda: The Human Rights Act** 27 **and a British Bill of Rights** 28 29 30

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32 Despite the Conservative Party's role in proposing and writing the ECHR - the support given
33 by Winston Churchill and the expert drafting by David Maxwell Fyfe - they have had an
34 uneasy relationship with the HRA and with the development of a new human rights culture in
35 Britain (Munce, 2012). Their concern has centred around four main arguments. Firstly, that
36 the HRA has caused an imbalance in the criminal justice system in favour of the perpetrator,
37 not the victim, and that abolishing the HRA would be an important part of their fight against
38 crime and restoring dignity to the victim. Secondly, that the operation of the HRA has
39 undermined the effectiveness of the government's fight against terrorism. Thirdly, that the
40 HRA has upset Britain's historic political constitution undermined parliamentary sovereignty
41 and helped to create a politicised judiciary. Fourthly, that the HRA and the new human rights
42 culture in Britain has under-emphasised the importance of balancing rights with
43 responsibilities and civic duty.
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4 Conservative concern about the HRA has been shared by every Conservative leader in
5 opposition since 1997 but it was the election of Cameron as leader in December 2005 and the
6 speech he made to the Centre for Policy Studies (CPS) in June 2006 that proved to be a
7 pivotal moment in the debate within the Conservative Party about the HRA and what a
8 statutory replacement for the HRA might look like. Cameron's speech to the CPS was his
9 first significant intervention on the human rights debate. His speech raised familiar themes
10 about the negative impact the HRA had had on the criminal justice system and in national
11 security issues particularly regarding the deportation of terrorist suspects and the restrictions
12 that Strasbourg jurisprudence has placed on national governments. It was in this CPS speech
13 that Cameron first committed himself to the repeal of the HRA and the introduction of a
14 British Bill of Rights (BBoR) that would address the sense of alienation felt by the public that
15 the HRA somehow reflected the foreign imposition of rights and liberties:
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28 So I believe that the time has now come for a new solution that protects liberties in
29 this country that is home-grown and sensitive to Britain's legal inheritance that
30 enables people to feel they have ownership of their rights and one which at the same
31 time enables a British Home Secretary to strike a common-sense balance between
32 civil liberties and the protection of public security. (Cameron, 2006a)
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39 Conservatives have repeatedly stressed that their problem is not with the text of the
40 Convention itself, with the rights enshrined in it or indeed the original vision of those who
41 drafted the Convention. For Conservatives the problem is with the Court's jurisprudence,
42 which Cameron's Justice Secretary Chris Grayling labelled as 'jurisprudence without limits'
43 (Joint Committee on the draft Voting Eligibility (Prisoners) Bill, 2013). For example, as
44 David Nuttall MP argues:
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52 There is nothing wrong with the rights in the original ECHR. The problem is that it
53 was written in the aftermath of the Second World War. In the minds of the
54 draftsmen were the atrocities that had been committed in Nazi Germany. What has
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4 gone wrong over the years is that judges have moved it way beyond that into
5 areas that no one would have ever believed that set of broad principles could
6 have ever applied to. (Interview, David Nuttall, 3 July 2013).
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11 From 2010 onwards, Conservative angst towards the HRA presented itself as an issue with
12 greater frequency. In part because of the tensions caused by the Coalition partner's divergent
13 views on the HRA, but largely because issues presented themselves and temporarily raised
14 the political temperature. One such issue was the matter of prisoner voting rights. However,
15 Strasbourg jurisprudence also impacted upon sensitive political matters such as life
16 sentencing in criminal cases, the extradition and deportation of terrorist suspects and
17 immigration.
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26 The formation of a coalition with the Liberal Democrats in May 2010 frustrated Cameron's
27 attempt to deal with the human rights issue. The Conservative Party and Liberal Democrats
28 entered the 2010 General Election with very different policies towards the HRA. The
29 Conservatives were arguing for its repeal and replacement with a BBoR whilst the Liberal
30 Democrats were determined to protect the HRA. As a result of the Coalition Agreement a
31 compromise was found on the HRA through the creation of a BBoR Commission established
32 by the Government in March 2011. It was established under the leadership of Sir Leigh
33 Lewis, a retired senior Civil Servant, and consisted of eight part-time commissioners. The
34 purpose of the Commission was to investigate, '...the creation of a British Bill of Rights that
35 incorporates and builds on all our obligations under the European Convention on Human
36 Rights' (HM Government, 2010a: 8). The Commission was, arguably, destined for stalemate
37 from its inception as its composition, '...merely reflected the dividing lines within the
38 coalition on the HRA with its membership equally divided between those who wanted to
39 keep it and those who wanted to repeal it' (citation removed). From the subsequent debate, it
40 would appear that in transferring the issue to a Commission the Coalition partners were
41 seeking to neutralise the issue and 'navigate a course of least resistance until both parties
42 were at greater liberty to argue for their respective distinctive positions on the HRA and the
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4 protection of human rights in the UK' (citation removed). The Commission issued its report
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6 in December 2012 stating that, 'on balance, there is a strong argument in favour of a UK Bill
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8 of Rights' (Commission on a Bill of Rights, 2012: 28). There was no consensus on what the
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10 shape of this new Bill might look like. It is perhaps unsurprising given the diverse array of
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12 opinions of the Commissioners. The Commission ended up producing a report which said
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14 quite a lot without actually saying anything substantive at all. Progressives such as Philippe
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16 Sands QC and Baroness Helena Kennedy QC, dissented from the Commission's
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18 recommendations, arguing that the existing framework for the protection of rights contained
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20 in the HRA was sufficient whilst the conservative, Michael Pinto-Duschinsky, resigned
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22 before the report was published. The fact that the relationship with the ECHR and the
23
24 Strasbourg Court was not up for negotiation in the Commission's deliberations reflected the
25
26 fact that the UK's continued adherence and acceptance of the ECHR and the remit of the
27
28 Strasbourg Court was essential for both the Liberal Democrat's entering Coalition with the
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30 Conservatives and remaining there for the lifetime of the Coalition.

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32 There would be no change in the UK's relationship with Strasbourg for the lifetime of the
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34 Coalition Government much to the consternation of a significant section of Conservative
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36 backbenchers who remained unhappy about the link with Strasbourg. Furthermore, changes
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38 in the composition of the Government signalled a change of direction for the Conservatives in
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40 terms of presenting a more distinctive and anti HRA position in contrast to their Coalition
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42 partners. In the Summer of 2014 Dominic Grieve QC, a strong supporter of the ECHR and
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44 the UK's role in the Council of Europe was replaced as Attorney General by Jeremy Wright
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46 and William Hague was replaced as Foreign Secretary by Philip Hammond. Prior to this,
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48 another strong supporter of the ECHR, Ken Clarke, was replaced as Justice Secretary in
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50 October 2012 by Chris Grayling. Grayling advanced a much more sceptical and critical
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52 position on the ECHR and the Strasbourg Court. Indeed, during this period Conservative
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54 anxiety about the HRA manifested itself more and more as angst about the ECtHR.
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4 As a consequence, the rhetoric about the Strasbourg institutions intensified within Cameron's
5 Conservative Party causing, it is argued, an unresolved tension between the scepticism and
6 dissatisfaction expressed about the HRA and the influence of the Strasbourg Court and the
7 strong support for human rights that existed within Cameron's liberal Conservative global
8 view. At the time of writing the future of the UK's framework for the protection of rights is
9 uncertain. For the meantime the HRA remains on the statute books. Despite governing alone
10 for the first time since 1992 the Conservative's slim majority meant they were unsure about
11 including a human rights Bill in their opening legislative programme. Nevertheless, the
12 Conservative manifesto for the 2015 General Election included a commitment that, 'the next
13 Conservative Government will scrap the Human Rights Act, and introduce a British Bill of
14 Rights' (Conservatives, 2015: 60) and 'break the formal link between British courts and the
15 European Court of Human Rights, and make our own Supreme Court the ultimate arbiter of
16 human rights matters in the UK' (Conservatives, 2015: 60). The commitment echoed the
17 central thrust of the Conservative's proposals for human rights reform unveiled in October
18 2014. Setting out their plan to replace the HRA with a BBoR, their plan proposed making the
19 ECtHR 'no longer binding over the UK Supreme Court' and to make it 'no longer able to
20 order a change in UK law' so that it 'becomes an advisory body only' (Conservatives, 2014:
21 5).

39 *The Impact of Domestic Human Rights Scepticism on Foreign Policy*

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43 In effect what Cameron's Conservatives' proposals did was, 'to countenance the
44 normalisation of non-compliance' (Elliott, 2015) with judgements of the Strasbourg Court
45 therefore making continued UK membership of the Council of Europe and its adherence to
46 the ECHR virtually meaningless. It is difficult to avoid the conclusion that ultimately what
47 will happen as a result of this strategy is that the UK could end up denouncing its position as
48 a signatory to the Convention and withdrawing from the Council of Europe. For example, in
49 response to some of the controversial decisions from the ECtHR, Cameron in a BBC
50 interview in September 2013 argued that:
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5 I am less interested in which Convention we are signed up to but as Prime Minister I
6 want to know can I keep our country safe? So for instance are we able to chuck out of
7 our country people who have no right to be here who threaten our country. I say we
8 should be able to do that. Now, whatever that takes we must deliver that outcome and
9 that is what I think we have the next 20 months to do and put into our manifesto
10 whatever measures need to be taken so that we can get the effect we want which is
11 basically to have greater ability to keep our people safe. (Cameron, 2013b)
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21 When asked by the interviewer what is wrong with saying 'we are pulling out of the
22 Convention' Cameron replied: 'Well it may be that is where we end up' (Cameron, 2013b).
23 Backbench dissent also exists as evidenced during a debate in the House of Commons on the
24 impact of the ECtHR's decision in *Hirst v UK (No. 2)* which ruled that a blanket ban on
25 voting for prisoners was a breach of article 3 of Protocol 1 of the ECHR. A number of
26 Conservative MPs expressed their discontent at the Strasbourg Court's decision. During the
27 debate Philip Hollobone MP argued that, 'The bottom line for me is that there would be less
28 shame in leaving the European Convention on Human Rights than in giving prisoners the
29 vote.' (HC Deb 10 February 2011, c 537). During a debate in the House of Commons on the
30 7th February on the issues surrounding the deportation of Abu Qatada another Conservative
31 MP said:
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43 What the British public want to know is this: if we cannot secure the reforms that we
44 need from the European Court of Human Rights, will we withdraw from the European
45 convention? In the absence of that commitment, the Home Secretary will simply be
46 spitting in the wind. (HC Deb 7 February 2012, c 173)
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52 Not all elements of Cameron's team agreed with this direction, most notably Dominic Grieve
53 who warned that if the UK withdrew it would risk being viewed as a 'pariah state' by the
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4 international community (Watt, 2012). Previously, whilst in opposition he stated that
5 withdrawing from the Convention would:
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9 Send a very damaging signal about how the UK viewed the place and promotion of
10 human rights and liberties and would be an encouragement to every tin pot dictator
11 such as Robert Mugabe, who violates them. Nor, if a UK government intends to
12 behave in an ethical manner, would withdrawal solve many of the problems now
13 blamed on the ECHR itself.' (D. Grieve, 2009)
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20 The ECHR is highly regarded and considered as one of the crowning achievements of the
21 Council of Europe by a range of international human rights lawyers and scholars (Stone
22 Sweet, 2012). As one scholar has argued, 'the ECHR system is widely accepted as the most
23 advanced and effective international regime for formally enforcing human rights in the world
24 today' (Moravcsik, 2000: 218). In other words, the ECHR system is the paragon in terms of
25 rights protection in the world today not least because of its enforcement mechanisms through
26 the Court.
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35 Cameron's Conservatives supported international structures that promote justice, human
36 rights and the rule of law and supported other UN human rights institutions. According to
37 international relations theory every nation, it is argued, fosters a national self-image
38 (Forsythe, 2000), which, in the post-Cold War era includes 'respect for internationally
39 recognized human rights' (Donnelly, 2000: 31). Respect for human rights and commitments
40 to defend and uphold them abroad are an essential element of a nation's narrative self-
41 understanding. The global self-image of Britain is also one that values the historic role
42 Britain has played as a beacon of democracy, liberty, freedom and respect for the rule of law
43 around the world. According to the Secretary General of the Council of Europe in his
44 evidence to the pre-legislative committee in Westminster examining prisoner voting rights in
45 terms of compliance with the ECtHR and respect for the Convention system the UK is the
46 'best in the class' (Jagland, 2013: 196). This also helps to explain why Cameron's liberal
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4 Conservative foreign policy was comfortable in accommodating support for international
5 human rights because to do so was consistent with the self-image they attempted to construct.
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9 There exists a significant disjuncture in foreign-policy practice that amounts to the,
10 '...selective deployment of international human rights standards' (Gear, 2012: 24). Western
11 powers intervened in Kosovo on humanitarian grounds in part because they had not
12 intervened in Rwanda to confront mass genocide. As such, as Gear argues, '...international
13 human rights law, in both theory and practice is riven with contradictions, disputations, rival
14 framings and oppositional accounts' (Gear, 2012: 24). Indeed, this disjuncture was
15 epitomised by Cameron's Conservatives towards international human rights. On the one hand
16 senior Conservative Ministers such as May and Grayling expressed profound dissatisfaction
17 with the judgements of the ECtHR against the UK in Strasbourg and as a result questioned
18 whether the UK should remain as a signatory to the ECHR. Whilst, on the other hand,
19 supported humanitarian intervention abroad.
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32 Therefore whilst liberal Conservatism in foreign policy had grown, including support for
33 humanitarian intervention and the need to uphold international human rights agreements,
34 there were significant tensions over what it meant for domestic issues. It led to discussions
35 about pulling out of the ECHR and the jurisdiction of the ECtHR. Therefore in seeking to
36 address domestic policy implications the Conservatives under Cameron risked undermining
37 their liberal conservative approach to foreign policy.
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45 **Conclusion**

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49 At its most foundational level the international human rights regime relies on a system of
50 national compliance where, crucially, the intensity of human rights commitment matters
51 (Donnelly, 2000). For example, the intensity of human rights commitments that the UK
52 enters into by being a signatory to the UNDHR is very different from the level of
53 commitment the UK enters into by being a signatory to the ECHR with the Strasbourg Court
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4 as its enforcement mechanism to ensure effective national compliance with the Convention.
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6 In the future, a Conservative government may conclude that the level of commitment
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8 required by the ECHR is too high a price to pay in terms of the loss of national sovereignty
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10 and the domestic political consequences for the Conservative Party and that withdrawal is the
11
12 only option left for them to pursue. Given the Brexit vote in the referendum on the United
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14 Kingdom's continued membership of the European Union on 23rd June 2016 and the
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16 triggering of Article 50 of the Treaty on European Union on 29th March 2017 it is clear that
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18 the British people have chosen to embark upon a radical new course of politics. By the end of
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20 March 2019 divorce from the European Union will be underway. Issues pertaining to the
21
22 future of fundamental rights are part of the negotiations between May's Conservative
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24 Government and the European Union.
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27 It could be argued that Cameron's Conservatives were playing a 'two-level' game with
28
29 regards to their attitudes and actions towards foreign and domestic policy issues of human
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31 rights. One might postulate that such game-playing was a cynical calculation of political
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33 self-interest. It is plausible. However, it is more likely that the dichotomy between human
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35 rights enthusiasm abroad and greater scepticism at home is based upon value commitments
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37 and traditions of thought. Cameron and Hague are self-declared liberal Conservatives; they
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39 follow in the footsteps of New Labour in seeking to frame international human rights abuses
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41 as a problem for all responsible members of the international community. They have
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43 demonstrated their willingness to act to save strangers. There are few votes won in UK
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45 elections because of such behaviour.
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48 Domestically, Conservative scepticism for the HRA is real but this does not mean they are
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50 anti-human rights. The nuanced reading of their scepticism for the human rights agenda
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52 reveals a concern for the traditional idea of parliamentary sovereignty and the nation-state.
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54 This same concern plays out in the arena of scepticism towards the European Union and its
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56 Court of Justice. Furthermore, the conservative element of their liberal Conservatism reacts
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58 against what they interpret as the judicial activism of the ECtHR on matters that, in their
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4 minds, ought to be left to the British courts. There is, as we have argued, a dichotomy and it
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6 proved problematic for the Cameron-led administrations. Tensions within Cameron's team
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8 and within the Conservative Parliamentary Party over the human rights agenda rose to the
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10 fore. None more so than between traditional Conservatives (Hollobone and Nuttall), liberal
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12 Conservatives (Cameron and Hague) and cosmopolitans (Grieve). This illustrates the fact that
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14 the Conservative Party is a broad-church with competing traditions of thought on the issue of
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16 human rights.

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19 In the cases of Libya and Syria the Conservatives under Cameron were willing, and in the
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21 case of Libya they were able, to risk the lives of British service personnel and spend scarce
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23 public funds in the cause of upholding the human rights of foreign nationals. One can draw
24
25 the conclusion that Cameron's Conservatives were human rights enthusiasts abroad and
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27 sceptics at home. These Conservatives had less of a problem with the text of the Convention
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29 or the rights it protects but with the jurisprudence of the Court. For such Conservatives,
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31 despite their support for the original *raison d'être* of the ECHR, the requisite action is to
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33 remove the UK from the ECHR – one of the key sources of Britain's problematic 'rights
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35 culture'. If Britain was to abandon its sixty-five year commitment to the Council of
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37 Europe's first treaty it would be the only European victim of Nazi aggression and, together
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39 with the People's Republic of China, the only non-signatory or observer to the ECHR on the
40
41 UN Security Council. What this would mean for Britain's soft power options is not fully
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43 clear.

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46 ¹ The authors want to record their gratitude to Claire Beech for her advice and assistance
47
48 regarding the structure and layout of the paper. Earlier versions were presented at annual
49
50 meetings of APSA (Washington D.C.) and PSA (Manchester) and benefitted from the
51
52 insights of colleagues. We are grateful to the anonymous referees for their comments.

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54 ² HM Government's Equalities and Human Rights Commission define human rights as: 'the
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56 basic rights and freedoms that belong to every person in the world, from birth until death.
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58 They apply regardless of where you are from, what you believe or how you choose to live
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60 your life. They can never be taken away, although they can sometimes be restricted – for
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62 example if a person breaks the law or in the interests of national security.'
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64 www.equalityhumanrights.com/en/human-rights/what-are-human-rights

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4 ³ Following J.L. Holzgrefe, we understand humanitarian intervention to be: ‘. . . the threat or
5 use of force across state borders by a state (or group of states) aimed at preventing or ending
6 widespread and grave violations of the fundamental rights of individuals other than its own
7 citizens, without permission of the state within whose territory force is applied. (Holzgrefe,
8 2003: 18)

9 ⁴ RAF precision bombing of ISIS targets in Syria and Iraq which commenced on
10 4th December 2015 is not categorised as a humanitarian intervention rather as a military
11 operation of self-defence in the national interest. The Conservative-Liberal Coalition won a
12 motion in the House of Commons on 3rd December by 174 votes with 66 Labour MPs
13 supporting. Cameron argued that the UK needed to bomb ISIS targets in Syria and Iraq. His
14 reasoning asserted that ISIS posed a grave danger to the safety and security of British
15 citizens. Until the motion was won the RAF’s contribution to Operation Shader had been
16 limited to dropping aid parcels and gathering intelligence in the form of aerial surveillance.
17 Given the viral character of ISIS’s ideology, the transnational nature of its targets and its
18 capacity to radicalize Muslims from a variety of cultures we concur with this reasoning and
19 categorise the military operation as self-defence in the national interest.

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21 ⁵ During the interviews the term ‘liberal interventionism’ rather than ‘humanitarian
22 interventionism’ was used.
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