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In 1950, eight European states signed the European Convention on Human Rights (ECHR), a treaty that codified numerous human rights and established procedures for individuals to seek relief from governmental human rights abuses. The United Kingdom, an original signatory, accepted the jurisdiction of the European Commission on Human Rights and European Court of Human Rights, and allowed its citizens to file human rights petitions before these bodies. However, Britain did not at the time incorporate the ECHR into its domestic law, and did not permit its own courts to enforce the Convention. The British resistance to the domestic incorporation of the ECHR changed in November 1998 when Parliament enacted the Human Rights Act (HRA).

In The Human Rights Act 1998, What it Means: The Incorporation of the European Convention on Human Rights in the Legal Order of the United Kingdom, editor Lammy Betton has compiled various analyses of the HRA’s effect on human rights law in the United Kingdom. The book is based on papers presented at a 1998 conference held before Parliament passed the HRA. But it retains relevance two years later, because it addresses a number of unresolved issues about how British courts will interpret and enforce the Act.

The first half of the book focus on the theoretical background of the Act and the ECHR. These essays summarize and compare British and Continental judicial traditions. The second half of the book examines how the HRA might affect British law and British human rights jurisprudence. The essays focus on four legal areas: environmental law, privacy law, private corporations, and property rights. In each of these areas, the authors discuss how Britain can, and should, adapt their law to reflect the text, purposes and past interpretations of the Convention. The essays also map out the boundaries of the HRA law and new rights that might be litigated in British courts under the Convention.

One of the book’s strengths is its focus on interpretive issues that will face British judges. British judges are predominantly textualists in statutory interpretation. This interpretive approach will need to be revised in interpreting the Convention, which is a treaty that consists largely of standards rather than rules. Mahoney’s essay is particularly helpful in explaining how these differences will affect the British judge’s normal interpretive role. He examines seven principles of purposive interpretation that the European Court follows when interpreting Convention law, and suggests that British courts should follow these principles as well. He acknowledges that this
approach would require "leaving aside the traditional canons of statutory interpretation," but he insists that this departure is necessary if British judges are to give full force to the Convention.

Reviewed by
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