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Defects of the draft European Union Constitution

The EU Constitution will affect us adversely in many ways. I pick just one, its bad effect on our laws.

The draft Constitution states that the EU and member states shall recognise the rights, freedoms and principles stated in the Charter of Fundamental Rights ('CFR') set out in Part II of the draft. This contains a set of rights which is very similar, but not identical, to those which are set out in the 1950 European Convention on Human Rights ('ECHR') and enforced by Tony Blair's Human Rights Act of 1998.

Conflict is bound to arise between the ECHR and CFR because they state things differently and will be administered by different courts, the ECHR by the European Court of Human Rights in Strasbourg and the CFR by the Court of Justice of the European Communities at Luxembourg. The results of this conflict will be disastrous for the rule of law. Rules carefully and precisely drafted in Whitehall will be 'read down' in unpredictable and contrary ways. Appeal courts will reverse lower courts, and the law will be in greater disarray than it is already.

Does this matter? Yes, because until differences are ironed out (involving much cost and delay) the law in question will not be ascertainable and its effect will be uncertain.¹

¹ *The Times Register (Debate)*, 31 March 2004.