CHRIS MULLIN MP: the age of enlightenment

DR. RICHARD VOGLER & JUDGE MARCEL LEMONDE: French lessons for runciman
This winter has been one of the most active periods for the Haldane Society for a long time, with some important new initiatives which will help to shape our work within the 'New World Order'.

The public meetings programme focused mainly on aspects of the criminal justice system and the debates that ensued helped us to formulate the Haldane Society's submissions to the Royal Commission on Criminal Justice (see article on page 20).

The Society's concerns about and expertise in relation to the criminal justice system have also contributed to our developing work in Northern Ireland. In September, a delegation of 14 lawyers and law students spent a few days in Belfast to investigate certain aspects of the criminal justice process there - the Diplock Courts, the right to silence (and its removal), the interrogation of suspects and the Casement Park trials. (See S, issue 15, page 7 for further details). The delegation has continued its research and is shortly due to publish a full report. If you would like to sponsor that report, please contact Nadine Finck, 6a Dowghty Street Chambers, 11 Dowghty Street, London WC2 (Tel: 0171 4041313). The report will stimulate debate both here, in Northern Ireland and internationally, on legal and human rights questions and an examination of the legal process in Northern Ireland. The Northern Ireland Sub-Committee will also be holding a number of public meetings to discuss the issues and is organizing a conference in Manchester later in the year.

An important development in our international work has been the recent establishment of the Africa Sub-Committee. This arose out of a major symposium in December about 'Africa, Democracy and the New World Order' (see Ian Graham's article on page 15). Over 150 people, including many activists, intellectuals and a wide range of solidarity organizations, attended. The event and subsequent activities provide a major focus for the Haldane Society's anti-imperialist work, placed in the very real context of solidarity themes, working closely with a range of groups which share this perspective.

Another dimension of this aspect of the Society's work is highlighted by our recent investigations into the situation in Libya and our involvement with the Campaign Against Intervention in Libya (see report, page 23). We see this project as a vital part of our contribution to international peace and cooperation, within the framework of international law and therefore opposed to illegal intervention by the USA in the affairs of other states.

Recently the Society supported the National Critical Lawyers Conference held at Kent University. The conference was entitled 'In or against the Law' and provoked wide ranging discussion about the role, if any, of progressive lawyers within the law. Many Haldane Society activists attended or were divided in their views: some argued that there is a very real point of political conflict in the court-room which can only be addressed by progressive lawyers; others felt that the lack of real opportunity to advance political objectives in their day to day practice increased the need for groups such as the Haldane Society and the Critical Lawyers Groups, which in their different ways provided an opportunity to use legal skills and experience for directly political purposes. The Haldane Society also took the opportunity provided by the conference to convey our support for the Critical Lawyers movement and our commitment to joint work. Students Critical Lawyers Groups were warmly encouraged to affiliate to the Society.

Other Sub-Committees of the Society remain active. They all organise regular monthly meetings, training courses and are working with a wide range of organizations both in this country and abroad (see page 30 for details).

The Haldane Educational Trust, to be launched on 18th March (see page 31 for details) is a new educational project which aims to raise awareness of the rights of poor people and under-developed countries, the role of states and transnational corporations in determining rights, and the unequal application of rights. We hope the Trust will soon be producing publications on Northern Ireland and the Africa Symposium, and organising training courses and conferences on current issues.

The Society's membership continues to grow, but finances are very tight. If we are to continue to develop these vital activities and produce SL, we must raise more funds. The Executive Committee is therefore embarking on a new recruitment drive and setting up a sponsorship scheme.

If you would like to know in more detail about the activities of the Society or make a donation, please contact Keir Starmer on 071-4041313 or at 11 Dowghty Street, London WC2N 2PG.
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Advancing Judicial Review

The Public Law Project is organizing a number of activities around the theme of the reform of judicial review, to link in with the Law Commission's new examination of procedures and remedies in this field.

The most important of these is a major research project on access to judicial review, funded for which is being provided by the Nuffield Foundation. The research will be carried out over the next 21 months and will be supervised by Lee Bridges, Research and Policy Office at PLP, and Maurice Sunkin, Lecturer in Law at the University of Essex.

The Project will encompass three main elements. First, it is intended to produce a comprehensive statistical profile of the use of judicial review, based largely on a data base already accumulated on applications lodged with the Crown Office between 1987 and 1989. Secondly, a detailed examination will be made of legal aid decisions relating to judicial review, with a view to evaluating the significance of legal aid in determining access, and the relationship between legal aid procedures and criteria and those opening in judicial review proceedings. Finally, in-depth interviews will be carried out with a sample of applicants and their legal advisers, as a means of identifying current problems with the procedure from the consumer's point of view.

Close liaison will be maintained throughout the research with the Law Commission, and preliminary reports covering the statistical analysis and legal aspects of the research should be published in the summer (1992). The full research will be completed in late 1993. It is also hoped to carry out parallel research in Northern Ireland, in cooperation with Queen's University, Belfast.

The PLP's programme of joint seminars on judicial review to coincide with the launch of the Law Commission's review. The first of these, bringing together representatives of voluntary sector organisations on housing, immigration, civil liberties, education and social welfare, was held in February.

A further seminar, for academic and practising lawyers and political activists will be held late in the Spring on the theme of 'Researching Judicial Review'.

Lee Bridges

Arab Death in Israeli Prison


Al-Akowi's unexplained death occurred less than 24 hours after he appeared before an Israeli military judge in Hebron court showing marks of torture and complaining of severe beatings by Israeli interrogators. His death tragically reconfirms the need for an independent investigation of Israel's interrogation practices and for access to detainees during interrogation by lawyer, family, and independent medical doctors.

Following a hearing on 3rd February, Judge Knobler told al-Akowi's lawyer, Loo Tisend, that the detainee had been shown him bruises on both arms and shoulders. Tisend was denied access to al-Akowi during his detention and even in court. The judge rejected a Shin Bet request to remand him for a further 30 days, ordering only a further eight day detention and a medical examination.

On 4th February, al-Akowi's father was summoned to discuss his son with a Bethlehem officer. Later that day, another lawyer arriving for the family called Hebron prison to be told of al-Akowi's death. No explanation was given.

PHRIC has documented the deaths of at least 10 Palestinians during interrogation since 1987. It has also documented the torture of Palestinians during interrogation, including the use of electric shock torture in Hebron prison in 1991. PHRIC renews its demand that there be a full investigation of Israeli interrogation practices and further demands that Israeli authorities immediately cease all forms of torture and other cruel, inhuman, and degrading treatment and punishment. Finally, it demands that lawyers, family and independent medical doctors have access to detainees during interrogation.

PHRIC

Supporting Legal Defence in South Africa

Well over 100 people gathered for a reception on 15th November 1991 in the Temple to mark the launch of the South African Legal Defence Fund ('SALDEF')

Organised jointly by Lawyers Against Apartheid (LAA) and the British Defence and Aid Fund for Southern Africa (BDAF), the event was well attended by Holdane members and addressed by Helen Kennedy QC, John Macdonald QC, Nathaniel Musiyiwa, and Justie Kleinreich, former Director of the International Defence and Aid Fund (IDAF).

SALDEF is the successor organisation to the IDAF, which secretly channelled over $100 million to South Africa for defence costs in political trials for 36 years. IDAF closed its operations in London in mid-89.

Although SALDEF has taken over IDAF's funding role, its functions are wider and include assisting the victims of apartheid repression, seeking redress, promoting a Bill of Rights and advocating a public defender system. Chaired by Dr. Beyers Naude and based in Cape Town, its trustees are drawn from a broad range of organisations including the National Association of Democratic Lawyers (a Holdane sister organisation) and the ANC.

How crucial is SALDEF's role is highlighted by the funding crisis that is suffocating many South African lawyers undertaking political cases.

The volume of urgent cases is not matched by the amount of available funds. Accordingly, LAA and BDAF have launched an appeal for funds for SALDEF.

Chances made payable to BDAF may be sent to:
22 The Freeills,
6.8 Northampton Street,
London, N1 2HX.

Mark Guthrie

Guatemala: The Reign Of Impunity

With the signing of the peace agreement in El Salvador, Guatemala is now the only country in Central America where a guerrilla war continues.

Impunity prevails in Guatemala in that the security forces can threaten, torture, kill and 'disappear' without any legal consequences. Last year alone, there were nearly 2,000 such cases. The social movements opposing this impunity are particular targets for repression. While the constitution and system of penal law require some reform, the more serious problem is the failure to implement it. Meanwhile, the ongoing negotiations between the army, government and the Guatemalan National Revolutionary Unity (URNG) guerrillas, have ground to a halt over the army's refusal to counteract international verification of any agreement on human rights.

The deterioration may well lead to Guatemala becoming a pariah nation again as it did after the counter-insurgency campaign of Rios Montt in 1982 when around 30,000 mostly indigenous people were massacred in their villages. US-Guatemalan relations have deteriorated since the murder of one of their citizens (Michael Devine) and the torture of another (Sister Diane Ortiz) in 1990. Moreover, the war is now the only obstacle to the development of the Central American market for the economic resurgence of the US with its Canadian and Mexican partners.

The peace process is very different from that of El Salvador in that the US do not now hold the purse strings of a self-enriched Guatemalan army. But more than that, Guatemala does not have the social homogeneity of its neighbor. It is becoming clear that any peace agreement in Guatemala which fails to involve the majority indigenous population of the country is doomed to failure. A legal system, for example, which only functions in Spanish, which does not allow a Quebe-speaking witness to a murder to testify because the court will not trust the translator's version in Spanish, will remain a legal system in which impunity prevails. Land reform has to codify forms of ownership of the land and not simply its tenure. While the social movements for change have grown enormously and the international community is sometimes backing some of their demands, it would be naive to assume that the peace accords in El Salvador can be replicated next door. In Guatemala, there is still a long way to go.

Patrick Costello
At a crucial time when our criminal justice process is under review, Dr. Richard Vogler and Judge Marcel Lemonde argue that the French model of examining magistrate, flavour of the moment here in Britain, could be the most regressive move yet.

Amongst the more radical items included in the terms of reference of the Royal Commission on Criminal Justice, is one which proposes that the police in England should be supervised by a judicial officer on the model of the French examining magistrate (the "juge d'instruction"). This system, it is argued, would not only guarantee the fair conduct of interrogations, but also bring English practice into line with that of continental Europe. There is growing consensus on the issue. Enthusiastic support has come from the Home Secretary, the ACPO, the police establishment and even from progressive members of the Bar. There are three major reasons why this solution is unacceptable and should be rejected.

First, it is concerned with the role of the lawyer in the police station. It is an accident that in those countries where judicial supervision is still practised (e.g. France, Spain, Belgium and, until 1988, Italy) the criminal legal aid systems are rudimentary. In France, legally-aided criminal work is largely the preserve of trainee lawyers (stagiaires). The role of remuneration is appalling and the status of criminal law practitioners is correspondingly low.

Gardez-Vous!

Significantly, in France, no lawyers are permitted access to their clients in the police station at any time. Under the garde a la procédure, the French police are permitted to hold suspects (or even witnesses in some cases) on their own authority for up to 24 hours. During this time, which can be extended to 48 hours by a prosecutor, the detainee is not informed of many rights whatsoever, is not permitted to contact anyone outside or to obtain legal advice and has no right of silence. The procedural rules for interrogations which are contained in Articles 153 and 154 of the penal procedural code, are extremely lax. They require that a warrant be compiled and that the detainee be offered a medical check after 24 hours and be given food and rest. Otherwise, the code is silent. The authority for an extension to 48 hours can be obtained by a short telephone call from the police to a duly prosecuta and without the detainee being permitted to put his or her case.

Although the controversial 1990 Delman-Marty Report 'Penal Jusce and the Rights of Man' recommended that defendants be allowed independent legal advice in the police station, the proposal has won little support. The supervision of a magistrate over police action, it is argued, is an adequate safeguard. Defendants must be produced immediately on the expiry of the gare a la procédure before a prosecuta magistrate and subsequently, in serious cases, to an examining magistrate. They therefore have an early opportunity to raise any concerned statements or to make complaints about treatment. The presence of a lawyer would be superfluous. Moreover, the low status of the defence community is often given as a reason for not permitting access in the police station. Since legal aid remuneration is poor, the temptation for unqualified or corrupt lawyers to act as 'letter-boxes' for criminal interests would be, so it is said, overwhelming!

In reality, the supervision exercised by magistrates is extremely limited. They are hardly ever present at the scene of an offence and a visit to a police station is an extremely rare occurrence. Examining magistrates are involved in less than 10% of cases and their relations with the police and the prosecution are often too cordial for complete objectivity. Nevertheless, the argument serves to deflect any calls for independent advice in the police station or for the introduction of legal aid remuneration to be increased. The supervision of a magistrate is seen as an alternative to legal representation and not as an addition. In view of the recent debate about criminal legal aid in England, lawyers and their clients should look with great scepticism at any proposal which might ultimately produce a similar result. The French experience underlines again that the only real guarantee of fairness is the right to immediate free advice and assistance from a competent and partisan defence lawyer.

Spare Parts

The second major objection to the proposal for an examining magistrate in England is that it would undermine the procedural rights which are crucial to an adversarial system. European jurisdictions are not spare-parts scrap-yards where a procedure can be unscrewed and bolted onto a different model. There are profoundly different assumptions about criminal justice. Continental systems, for example, are almost universally predicated on the 'free scrutiny' principle. Since all evidence is gathered (in theory at least) by a professional magistrate in controlled circumstances, Anglo-American procedural rights are considered largely irrelevant. There are almost no rules of evidentiary exclusion as we might recognize them and lawyers in these jurisdictions are concerned more with the 'weight' or 'value' of evidence rather than its admissibility. Since the procedure depends on a continuous dialogue between magistrate and defendant, an effective right to silence is needed to make such a system workable.

This approach has its domestic critics, but it certainly could not be operated without strict hierarchical control of the police and other state professionals. Similarly it is regarded as essential in most continental jurisdictions that the reasons for all decisions should be recorded in writing and be subject to judicial review. These organisational structures simply do not exist in England and could not do so without major reform of the judiciary and the courts along continental lines. To adopt a system of judicial evidence-taking without the safeguards necessary for its operation would be disastrous.

Watching the Detectives

The final argument concerns the accountability of police forces. Abolition of internal border controls within the European Community by 1993 may well make pressure for a national police force in England and Wales almost irresistible. Such a development would produce an infinitely more powerful organisation. Douglas Hunt, while home secretary on 5th October 1989 pointed out:

"The purpose of police forces is to prevent crime and enforce the law. Police forces are subject to scrutiny by the public and their accountability to the community is an essential principle of the police service. The public must be able to have confidence in the police and to know that they are being properly used. It follows that the police force must be seen to be independent in its decisions and they must not be influenced by the political pressures of the day. If that were not the case, the public would lose confidence in the police service and the trust of the public is the lifeblood of the police service."

This vision of the future might be coupled with the police entirely free of any remaining local democratic involvement. It would certainly erode the integrity of our criminal justice system. Not only would the importance of independent pre-trial partners learn that even representations of chief officers are unable to deliver binding commitments on behalf of their colleagues.

Rather earlier in that year, Sir Peter Imbert, the Metropolitan Commissioner, had proposed a 'national overlay' to existing forces, saying:

"This overlay would have to encompass the following services, operations, intelligence, support and mutual assistance ... The amalgamation of ... law enforcement bodies into the national structure would have the responsibility for investigating the most serious of national and international crime, terrorist related crime, drug trafficking, serious fraud and counter terrorism cases."

Accountability for such an organisation, he suggested, should be through the Home Office and a fully national police force was only a few years away. Although the current home secretary, Kenneth Baker, has denied the existence of any such 'hidden plan' to make a 'major change to the structure of policing' the question is clearly on the agenda. It is hard to see how the 'piecemeal solutions and Heath Robinson structures' of our current system of police accountability could survive much beyond 1993.

The creation of new police institutions (both at the national and the supra-national level) which must follow from the single European Market, provides an entirely new context for the discussion of accountability. It is widely argued that the dismantling of the remaining local democratic involvement in policing under the regime set up in 1964 is inevitable and will require some quid pro quo. The so-called 'judicial supervision' of the police, with the elevation of the C.P.S. into the kind of supervisory role occupied in France by the examining and prosecuting magistrates might possibly offer one solution. As Imbert has said:

"It was time to examine the advantages and disadvantages of the French system of investigating magistrates. One reason was the greater harmonisation of legal processes across Europe and a second reason lay in the criticism of the police aroused by such cases as the Guildford Four."

This vision of the future might be coupled to the police entirely free from any remaining local democratic involvement. It would certainly erode the integrity of our criminal justice system. Not only would the importance of independent pre-trial
representation be diminished but the right to silence could not survive the introduction of an examining magistrate. It is perhaps worth noting at this point that the abolition of this right is specified within the terms of reference of the Royal Commission. Presumably the logic of its inclusion is that the abuse of the rights of the Birmingham six would have been less grave if they had fewer civil rights to abuse!

Germany abandoned the idea of an examining magistrate in 1975 and Italy in 1988. It is under fierce attack by civil libertarians and others in the countries where it remains. Surely it is time to encourage our colleagues in France, Belgium and Spain to continue to press for adversarial rights in their pre-trial. We must also ensure that this unhappy relic of inquisitorial practice, the examining magistrate, finds no place in our own.

Dr. Richard Vogler

Dr. Richard Vogler is a Solicitor and Law Lecturer at Sussex University.

The Delmas-Marty Commission, after its President (a law professor from Paris),

The Delmas-Marty Report

In November 1989, it published a preliminary report, designed to generate discussion, rather than provide solutions. The first part of the report looked at various existing systems, whether adversarial, inquisitorial or mixed. The second part dealt with a series of fundamental questions, including police accountability, pre-trial detention and publicity. In the third and final part of the report, the Commission identified the basic tenets of the criminal process, the most important of which are the guarantee (judicial) of the principle that a judge must be involved from the start of the process in all matters affecting the liberty of the accused, the protection of the victim (the accused must have access to justice) and the equality of arms (the parties must have equal ammunition throughout the criminal justice process).

There followed a exchange of oral and written submissions, culminating in the Commission's final report in June 1990 recommending a package of reforms which were both innovative and compatible with the history of the French system and the European Convention on Human Rights.

Split Personality

The analysis by the Commission was broadly that the current system cannot be remedied by piecemeal reforms which simply proliferate the rules of procedure and lack adequate resourcing. The examining magistrate is supposed to be the key person in the preparatory stages of the penal system. In fact, in terms of volume of work, his/her importance has diminished: 40% of cases were submitted to the examining magistrate in the 19th century, 20% in 1960 and 7% in 1988. In practice, the investigative process has been adapted by using a summary procedure in which the Public Prosecutor (Procureur de la République) directs the investigation, resulting in a total confusion of roles. More fundamentally, the principle of judicial guarantee cannot reach its full application within the traditional investigatory system because of the incompatibility of the functions of the examining magistrate, at once an investigator and a judge. These functions must be separated. The Commission therefore proposed that the direction of investigations should lie with the Public Prosecutor in all, and not just in about 93% of cases, thereby unifying the process. It also suggested increasing the powers of the judge (a real judge, relieved of his investigative charge) at the preparatory stages. It also recommended greater rights for the defendant.

The majority of commentators welcomed the originality of the initiative. Most practitioners, however, were hostile to the proposals, which were seen as a 'cultural revolution'. Most politicians declared this to be a remarkably thoughtful document, but whose implementation would be extremely difficult.

The main problem stems from fears that the Public Prosecutor is not sufficiently independent to conduct investigations, a feeling which is reinforced by several recent cases in which political intervention has been denounced. Despite the fact that the Commission envisaged that a file could be withdrawn from the Public Prosecutor if necessary, the fears will remain unless the Prosecutor's role is changed to ensure his political independence.

Compromising Change

The Government recently unveiled a new project which reintroduces many features of the abortive law of 1985 and retains some of the proposals of the Delmas-Marty Commission for increasing the rights of the defence, but does not challenge the traditional procedure and retains the examining magistrate. At a time when most countries are reviewing their criminal process (Britain is reviewing its adversarial system, Italy abandoned the inquisitorial system in 1988 and Portugal adopted a new process along the lines of the Delmas-Marty proposals in 1987); at a time when the distinction between inquisitorial and accusatorial is outdated, at a time when the need for strong guiding principles is being recognised, particularly in the jurisprudence of the European Court at Strasbourg, France would have done better to have set about constructing a new European model. Instead, we will have to wait a little longer.

Marcel Lemonde

Marcel Lemonde is a progressive judge and recently appointed Assistant Director of the School of Magistracy in Bordeaux.

This piece was translated from the French by a member of the editorial collective.

more french lessons...

The French criminal justice process has been severely criticised for many years: for excessive delay in many cases (five, seven or ten even years to come to trial is quite common); for the summary way in which judgment is given in other cases, based on the burden of police files; for the abuse of pre-trial detentions (about 40% of prisoners are held on remand); for the lack of protections available to the defence. And so on.

Certain unfortunate cases have focused attention on the need for reform. That there has been new legislation every other year for the last 20 years highlights both the legislative will to tackle the problem and the impotence to do so effectively. These reforms have swung from increasing the procedural rules in favour of greater rights to reinstancifying those rules to aggravate paralysis of the system.

Legislative Stuttering

In 1985, the Government decided to launch the most ambitious reform programme by legislating for the transfer of the examining magistrate's functions to a collegiate body of three judges. The new law would have come into force in 1988, but for its repeal in 1987. It was replaced by an equally inappropriate law which was, once again, repealed before coming into force.

At the risk of Parliament falling into disrepute over this 'legislative stuttering', the Minister of Justice decided, in August 1988, to delegate the task of considering reform of the criminal process to a working party composed of practitioners, judges and academics, namely the Commission for Criminal Justice and Human Rights, better known as the 'Delmas-Marty Commission', after its President (a law professor from Paris).
As we approach a general election, the recent launch of Liberty’s Peoples’ Charter adds fuel to the debate on how to provide for the protection of fundamental civil liberties within the framework of the legal system. The arguments have become polarised between those in favour of a Bill of Rights and supporters of Incorporation of the European Convention on Human Rights into domestic law. Francesca Klugg of Liberty, and primary author of ‘A Peoples’ Charter, Liberty’s Bill of Rights’ argues persuasively for a third way.

Imagine the following hypothetical scenario. It is May 1992 and the general election has resulted in a hung Parliament. The Liberal Democrats and Labour front benches are negotiating a working relationship. On constitutional issues, Labour cannot commit itself to Proportional Representation, but offers to support a Freedom of Information Act and the Incorporation of the European Convention on Human Rights in exchange for Liberal support on economic policy.

Within a year, the Convention has become part of UK law. The judges are bound to give it precedence over all other laws striking down Acts which conflict with it. But will entrenched European Convention, this process is known, actually mean our civil rights are entrenched in the process?

**The Evidence: For and Against**

The record of the courts in defending and extending human rights is, at best, a mixed one. Radical lawyers like Connor Gearty and Keith Ewing (authors of ‘Democracy or a Bill of Rights’) strongly oppose the judicial law-making which inevitably flows from interpreting the broad principles in a Bill of Rights. They argue that incorporating the Convention is wrong in principle in that it would damage ‘a little democratic culture there is in this country’ by transferring powers from elected representatives to appointed judges, and wrong in practice, in that it would be more likely to weaken rights.

The failure of the courts to overrule the executive in the GCHQ Spycatcher and broadcasting ban rulings are cases in point. In the broadcasting case (R v Secretary of State for the Home Department, ex parte British), Lord Bridge implied that it would ‘almost certainly have made no difference to the Law Lords’ decision had the Convention been incorporated into UK law. This was because the Secretary of State’s action fell within the limits of the right to freedom of expression under Article 10 (which include what is necessary in a democratic society in the interests of national security, territorial integrity or public safety.)’

In an international context it is possible to cite instances from America and Canada where a Bill of Rights has been used to further the commercial interests of the tobacco companies and Sunday trading lobby at the expense of ordinary individuals or workers. On the other hand, the Canadian Charter of Rights has led to the liberalisation of their abortion laws, and the enforcement of civil rights legislation in the reconstituted Southern States owes much to the American Bill of Rights. On the domestic front, the courts have shown an increasing willingness to review the exercise of discretionary powers by government and public officials, particularly where there is no right of appeal, as in some immigration and asylum cases.

Furthermore, policy changes which have followed European Court rulings demonstrate clearly the advantages of Incorporation - from the legalising of homosexuality in Northern Ireland to the abolition of corporal punishment in UK state schools. No longer would applicants have to go through the lengthy and expensive process of taking cases to Europe. And should they fail to find redress from British judges, an appeal could still be lodged with the European Court.

**The Arguments: For and Against**

But what if, as opponents of Incorporation argue, British judges interpret the Convention restrictively? What if they outlaw abortion on the grounds that it breaches the right to life under Article 2? Or rule that Article 10 on freedom of expression conflicts with laws limiting Party expenditure in the run up to an election? In all these cases, and in contrast to the current constitutional arrangements, Parliament would be powerless to legislate to overturn court rulings and the judges would have determined the law on our fundamental rights. Conversely, if the courts rule that some of the more draconian legislation of the last 12 years was in line with the Convention, this would surely further legitimise such laws.

Yet without some kind of Bill of Rights there can be no minimum safeguard against future attacks on civil liberties. A decade ago we could not have foreseen that HIV and AIDS sufferers would require legislative protection against attacks on their freedom. Under a Bill of Rights they could seek to demonstrate in court that, for example, their right to a private life or freedom of association with others was being infringed. Minorities, in particular, cannot hope to receive adequate protection from reforms of the democratic system alone, inevitably based on the principle of majority rule in one form or another. Specific legislation may be the surest way to
extend our rights but lesbians and gay men, for example, may have to wait a very long time before any political party will commit politics to addressing the many levels of discrimination they currently face.

'A decade ago we could not have foreseen that HIV and AIDS sufferers would require legislative protection against attacks on their freedom'

However, supporters of Incorporation tended toWrongly However, supporters of Incorporation tended to underestimate, namely, that the courts will generally safeguard rights. The American Bill of Rights is a far more important, on the whole, than the Convention, containing far fewer limitations to legal 'get out' clauses. Yet, this did not prevent massive breaches of the rights to freedom of expression during the post-war McCarthy era. As we saw with the recent Human Rights Act, Thomas, to give the final say in enforcing a Bill of Rights means that their political views can have greater impact in everyday life than those of elected representatives.

But is the only choice between retaining the doctrine of parliamentary sovereignty over our laws (already denuded, of course, by the European Communities Act), and giving judges the ultimate say in determining rights. If the purpose of a Bill of Rights is not to secure constitutional change per se but to strengthen the rights of the people vis à vis the state, then surely the most crucial test of any Bill of Rights is: has it delivered the goods? As the evidence is mixed, it seems sensible to review whether there are other systems for enforcement which would offer fewer pitfalls and stronger protection for our rights than a judicially entrenched, incorporated European Convention.

Entrenchment Through the Democratic Process

Liberty's Charter of Rights, whilst modelled on the Convention, draws on a range of international and domestic Bills of Rights and other legislation. The Convention is not out of date in parts and has too many broad limitations on the rights it confers. But the most significant variant on the Convention we propose relates to the question of judicial entrenchment.

After studying numerous Bills adopted by different political systems, Liberty has drafted proposals which involve both the judges and MPs in enforcing our Bill of Rights. (It should be noted that the European Convention is enforced by a Committee of Ministers as well as a court). Legislation on fundamental rights would no longer be subject to the same parliamentary procedures as that covering, for example, dog regulation and the courts the Bill of Rights is reviewing the exercise of discretionary powers, without extending the law-making powers of judges. What we have constantly heard from the democratic process would need for a new complaint, unless challenged by its supporters. Returning to the hypothesis at the beginning of this article: if the Convention were incorporated using a democratic model of enforcement, it is difficult to envisage how our rights could be weakened as a result, and there would be every reason to believe that the reverse would apply. Over 200 years after Thomas Paine wrote 'Rights of Man', it is time to consider introducing a democratically enforced Bill of Rights?

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**Health warning** legislation would have a maximum five year lifespan

To take an example from recent Canadian experience, should the Supreme Court that the 1976 Sexual Offences Act (which protects victims in rape trials from questioning about their sexual past) violated the rights of the accused, the relevant provisions would be overturned. However, in contrast to the Canadian system, we would not have to wait for judges to decide and be replaced by those of differing views before this decision could be reversed. If the Scrutiny Committee decided by a two thirds majority that these provisions were within the meaning, intention and spirit of the Bill of Rights, Parliament could re-assert them in the knowledge that they were safe from judicial review. Exactly the same scenario would apply should the courts overturn the Abortion Act in breach of the Bill.

If, on the other hand, the Scrutiny Committee ruled, by the requisite two thirds majority, that a law, such as the Prevention of Terrorism Act, violated the Bill of Rights, then it could only stay on the statute book with a 'health warning' attached to it, a similar mechanism to that under the Canadian Charter. This would draw attention to the fact that the PTA was a breach of human rights. A similar ruling by the courts would have the same consequence. But should the courts support the government and declare that the PTA was in fact within the terms of the Bill, the Scrutiny Committee would still be free to declare otherwise. Health warning legislation would have a maximum five year lifespan and, in a year it was borrowed from the Labour Party, the second chamber could postpone the coming into force of such laws for the lifetime of one parliament.

In response to the objection that this model would lead to a flood of 'health warning' legislation, it should be noted that the political issue and attendant publicity created by laws which explicitly breach the Bill of Rights is bound to act as a countering force. Engaging people in the debate and cementing the legal powers of the courts in this realm is the key. Informing the public about the important legal arguments in favour of our proposals. While individuals could seek enforcement of their rights through the courts, the debate about whose fundamental rights lie when they collide with each other would not become insurmountable in the highest courts of the land, as feminists have argued has happened in Canada, but would remain within the democratic process.

In this, the third way, a formula which we believe addresses most of the concerns of the opponents of a Bill of Rights, whilst bringing most of the benefits enjoyed by its supporters. Returning to the hypothesis at the beginning of this article: if the Convention were incorporated using a democratic model of enforcement, it is difficult to envisage how our rights could be weakened as a result, and there would be every reason to believe that the reverse would apply. Over 200 years after Thomas Paine wrote 'Rights of Man', it is time to consider introducing a democratically enforced Bill of Rights?

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**A Peoples Charter, Liberty's Bill of Rights** is available as a consultation document, complete with questionnaire, from 21 Tabard Street, London SE1 4LA, price £4.99.

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**Haldane forges new links**

Yao Graham, a Ghanaian writer and lawyer, reports on the huge success of the Haldane Society's one day symposium on Africa, Democracy and the 'New World Order', which took place on 7th December 1991.

Over 150 people attended the one day Africa symposium last December. The response far exceeded expectations and the meeting room had to be changed twice on the day to accommodate everyone. Participants took close and vigorous part in the discussions which continued well beyond the planned time.

Bill Bowring, Chair of the Haldane Society spoke in his opening address of the society's solidarity interest in the current democratic struggle in Africa. He said the symposium marked Haldane's recognition of the need for and value of networking among anti-imperialist and socialist solidarity groups so as to support democracy in Africa.

Adotei Bing, an economist and writer on African affairs, gave an overview of the economic crisis in Africa and its relationship with the processes of change taking place in the international capitalist economy, emphasizing the importance of achieving independence and liquidating under-developed. He placed his analysis within the framework of anti-imperialism and Pan-Africanism. Drawing attention to the technological gap facing Africa, he said that change must spring from indigenous needs, rather than imported technology. He noted the small size of African enterprises compared with the capita, global conglomerates. Larger enterprise operating without new trade policy framework of continental integration, such as the African Economic Community Treaty, is vital for Africa's economic advancement.

A.M. Babu, political scientist and Pan-Africanist, speaking about the 'Political Situation on the Continent', analysed the significance of support previously outlined in Africa. From an anti-imperialist and Pan-African perspective, he sharply denounced the hypocrisy of Western governments which, after supporting Africa's visionary and expensive regimes for so long, suddenly claiming an interest in democracy in Africa. Honore Campbell, Pan-Africanist and Professor at Syracuse University, made similar comments about the West's hypocrisy. He recalled their active opposition to the national liberation movement in Southern Africa and concluding of South Africa's war against its neighbours, describing the aim of Bush's New World Order as the globalisation of apartheid.

Peter Seddon, South Africa born, anti-apartheid activist and lecturer at the University of Cork, analysed the African Charter of Human and Peoples' Rights within the framework of the current debates about human rights and democracy.

Sunny Senafamu, Ugandan lawyer and lecturer at Coventry Polytechnic, speaking on the place of women in the pluralistic legal systems of Anglophone Africa, provided vivid analysis and evidence of how the borders of oppression facing women are compounded by the coexistence of patriarchal, customary, common and statutory law which affects the autonomy of the person, property rights and marriage.

Jane Willford and Lulio Muxins spoke about Lusophone Africa and Zaire respectively. Jane, who spent almost a decade in Angola, described the new democracy that the MPLA had tried to build in Angola: a system of direct popular participation rising from the community to the nation, as an advance on the liberal democratic conception of democracy. Her voice broke when she talked of the destruction, death and trauma wreaked by UNITA.

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Chris Mullen MP, guest speaker at the Haldane Society's annual D.N.Pritt Memorial Lecture last December, shared his recommendations to the Runciman Commission on Criminal Justice.

For the convictions of Timothy Evans, the Guildford Four, the Birmingham Six, Judith Ward, the Carl Bridgewater defendants, the Broadwater Farm defendants and many others, alleged methods of extraction vary from the mere threat of violence to sleep deprivation and systematic torture. A number of people from the West Midlands are serving or have served long prison sentences solely on the basis of confessions which, they say, were extracted after plastic bags were held over their heads.

It will, of course, be argued that there is no longer any problem since the 1984 Police and Criminal Evidence Act provides for the tape recording of interviews. This is undoubtedly a big step forward, but there are several obvious difficulties. Firstly, the tape recording of interviews has not yet been introduced in many police stations. Secondly, the Act does not apply to cases involving terrorist offences and is, therefore, irrelevant to some of the most contentious cases.

Thirdly, it is possible to instantiate suspects in ways which would not necessarily be apparent in a recorded or even a video-taped interview. Gerry Conlon, one of the Guildford Four, for example, says that he was prompted to confess by threats made regarding his mother and sisters.

I have invited the Royal Commission on Criminal Justice ("The Commission") to recommend:

1. That convictions on the basis of uncorroborated confessions in police custody be outlawed.
2. That only taped-recorded confessions, preferably video-taped, be admissible.
3. That only statements recorded in the presence of a solicitor be admissible.
4. That all other forms of corroboration shall be inadmissible.
5. That suspects in terrorist cases should be treated identically to suspects in non-terrorist cases and that the Prevention of Terrorism Act be either abolished or amended accordingly.
6. That the courts ought to allow for the possibility that a confession which meets the above criteria may still have been obtained by threats, inducements or a deal with the suspect that occurred prior to the recording of the statement.
7. That the Home Secretary should immediately order a review of existing convictions which rely wholly or mainly on uncorroborated confessions.

Forensic Scientists

It has been a feature of the Birmingham pub bombings case that, on each occasion it came to court, a Home Office forensic scientist came forward to explicate the evidence of the Home Office forensic scientist at the previous hearing. On each occasion he or she did so with total confidence and on each occasion the court accepted the new evidence without qualification.

In the Guildford case the forensic scientists worked for the Ministry of Defence at the Royal Arsenal at Woolwich. It is a matter of record that two Misses Higgs and Lidstone—made significant alterations to their statements, apparently at the suggestion of the police.

In the Birmingham case, it appears to have been widely known among Home Office scientists, that the Gemini test, upon which the Crown relied, was not reliable and yet for years no one came forward to say so.

It became apparent during the course of the Birmingham case that a close friendship had developed between forensic scientists Dr. Skuse and Superintendent George Readie, the officer in charge of the investigation. Telephone records from the hotel in which Dr. Skuse stayed during the 1987 appeal show that, shortly after leaving the witness box, Dr. Skuse made several calls to Mr. Reade's home number. A few days after Skuse left the witness box, but before the appeal was complete, an ITN camera crew called at Reade's home and were surprised to find the door opened by Dr. Skuse, who    lived 60 miles away in Wigan. The laws of libel do not permit me to say what I believe to be the implications of the relationship, but I have set them out in Hansard, February 2, 1988, at columns 950-4.

The moral of all this seems to be: 'Put not thy faith in experts'—particularly forensic scientists in the employ of the Home Office or the Ministry of Defence.

I have invited the Commission to recommend:

1. That a forensic science service be established, to which both the Crown and the defence has access, which is independent of both.
2. That firm guidelines be laid down, with appropriate penalties should they be breached, regulating the relationship between forensic scientists and the police or any other interested parties.
3. That proper procedures be established for the documentation of forensic evidence and that such evidence should be inadmissible if these are not adhered to.
4. That judges adopt a more cautious attitude to post mortems and avoid, as Lord Justice did with Dr. Skuse and Lord Lane with Dr. Dayton in the Birmingham case, elevating expert witnesses to the status of sibyls.
The Director of Public Prosecutions

It has been a feature of the Birmingham and Guildford cases that crucial evidence was not disclosed to the defence. In some cases it simply disappeared without trace. In others it was consigned to official archives and only extracted with extreme difficulty. In a number of extremely serious instances, responsibility for non-availability notes with the DPP and those who acted for him. In the light of what is now known, it will not surprise anyone that the police routinely suppress inconvenient evidence, but it may come as more of a surprise to learn that the DPP is capable of similar behaviour.

In November 1975 - four months after the Birmingham defendants were sent to prison for life and while their appeal was pending - a number of genuine members of the Birmingham IRA were arrested. At least one of these gave the police a detailed account of the Birmingham IRA. In particular, he named one man who, he says, he last saw in the Sportsman's Arms pub, Birmingham, at Christmas 1974, six weeks after the bombings, who said, 'that he actually placed the bomb in one of the pubs'. This document was suppressed.

On 12th December 1975, after a six day siege, four members of an IRA unit were captured at Balcombe Street in central London. Two of them, Eddie Butler and Joe O'Connell, were interviewed the following day by Commander Jim Neilson and Detective Superintendent (now Sir) Peter Imbert. During this interview they admitted to bomb- ing the King's Arms Woolwich - one of the offences for which the Guildford Four had just been convicted. Neilson and Imbert, according to their notes of the interview, both expressed concern at the possibility that innocent people had been convicted and an anxiety to get at the truth. The DPP was informed but took no action.

These were just two examples. I have invited the Royal Commission to recommend that deliberate non-disclosure should be made a criminal offence and that accidental non-disclosure should be made a serious disciplinary offence. should be referred to a Court of Last Resort, along the lines recommended by the House of Commons Affairs Select Committee in 1982 - see below.

The Judiciary

Although it is said to be a cardinal principle of our legal system that the judiciary is independent of the State, a study of the many judicial pronouncements in the Birmingham, Guildford and Maguire cases would show that throughout they have been remarkable examples to the position of the Crown. In the final Maguire appeal, for example, the Crown asked that the convictions be quashed solely on the grounds of the possibility that one of the seven - they did not say who - had been involved with explosives and that the other six had been innocently contaminated. The Appeal Court duly obliged, even going to the extent of inventing the so-called magic towel on which, the judges speculated, all seven may have washed their hands, some becoming contaminated to the extent that nitroglycerine had been found under their fingernails. For the contamined towel, there is no evidence that it ever existed.

I have asked the Commission to recommend:
1. A system of judicial appointments which results in a judiciary composed, particularly at the highest level, of a far greater cross-section of the legal profession and society as a whole than is currently the case.
2. That the criteria for selecting judges be made public.
3. That all judges retire at 65.
4. That a parliamentary select committee be established to review senior judicial appointments.
5. That newly appointed judges undergo some form of training.
6. That judges be permitted only to sum up on the facts and that opinions about the credibility of witnesses be left to juries.
7. That judges who are freemasons should declare that they are and that the record should be publicly available.
8. That judges be more rigorous in enforcing disclosure of all relevant documents and penalising failure to do so.
9. That the rules on disclosure cover relevant material which becomes available even after conviction or appeal.
10. That the composition of the Court of Appeal be immediately reviewed with a view to appointing judges better able to cope with the possibility that the system over which they preside can be mistaken.
11. That cases which have already exhausted the normal appeal procedure in which, in the judgement of the Home Secretary, there is sufficient cause for concern, should be referred to a Court of Last Resort, along the lines recommended by the House of Commons Affairs Select Committee in 1982 - see below.

The Home Office

Until recently, despite the courts' concern, miscarriages of justice have not been taken seriously by Home Office ministers. Ministers have traditionally been reluctant to refer cases to the Court of Appeal due to the legendary reluctance of that court to admit to mistakes. Within the Home Office there is a department, C3, which has responsibility for advising the Home Secretary on alleged miscarriages of justice. In my experience, C3 does not engage in any original research, but sees its role as merely confined to commenting, usually adversely, on representations made by others. Sir David Napley told the Home Affairs Select Committee, in 1982, that he was not aware of any miscarriage of justice that had been corrected as a result of an initiative by the C3 department. I do not know if much has changed in the ten years since that remark.

I have invited the Commission to recommend that responsibility for dealing with miscarriages of justice be removed from the home Secretary and passed to a Court of Last Resort, along the lines recommended by the Home Affairs Select Committee in 1982.

Freemasons

The high incidence of freemasonry in the police and legal profession has been documented elsewhere. I have invited the Commission to say that membership of a secret society is damaging to public confidence in the fair administration of justice. I have also invited it to recommend that police officers, magistrates, officials of the DPP and the Lord Chancellor's department who are freemasons should be obliged to declare so, and that their declarations be available publicly.

A Court of Last Resort

The case for a Court of Last Resort was made cogently in the report of the Home Affairs Select Committee on miscarriages of justice. I have asked the Commission to recommend:
1. That a Court of Last Resort be established.
2. That it be accountable to Parliament.
3. That members should be appointed by Parliament and that it should contain a clear majority of non-lawyers, drawn from a wide range of backgrounds.
4. That it should have the power and resources to commission its own investigations and to subpoena documents and summon witnesses. 5. That to be eligible for consideration an appellant must have exhausted the normal appeals procedure.
6. That, subject to having exhausted the normal procedures, cases may be referred to it from any source and that a decision as to whether to review a case is a matter for the court itself.
7. That, although for the purposes of proof the standard of proof should be the same as that required in a court of law it should have the discretion to admit evidence that would otherwise be inadmissible in a court of law - for example, my claim to have traced and interviewed the persons responsible for the Birmingham pub bombings.
8. That, if it is satisfied that a conviction is unsafe, it should have the power to order a new conviction without further reference to the Court of Appeal or the Home Secretary.
9. That legal aid should be available to an applicant whose case has been accepted for review by the Court.

'Not Proven'

It has been suggested that a verdict of 'Not Proven' should be available to the courts in cases where innocence is not definitely proved. In my view this would simply become a device for perpetuating miscarriages of justice and legitimising the unscrupulous whispering campaign that has accompanied the quashing of the Guildford, Birmingham and Maguire convictions. It could also provide an excuse for denying compensation to persons unjustly convicted. I hope the Royal Commission will avoid the temptation to go down this road.

Conclusion

During the last six years, I have had the opportunity of studying at close quarters the determination of those responsible for the administration of justice. Despite what has happened, I detect little evidence of the humility that will be necessary if the tragedies of the last two decades are not to be repeated.

There are signs from both the Home Office and the Appeal Court that they are prepared to look more generously at individual cases. I welcome that. But when it comes to institutional reform, most of the emphasis seems to be on damage limitation rather than prevention. I anticipate that there is likely to be considerable resistance to any sweeping reform. The Royal Commission will, therefore, need to state its conclusions robustly, ever mindful that the slightest ambiguity or hint of qualification will be seized upon as an excuse for doing nothing.
Making The Law WORK FOR WOMEN

by Jeanne Gregory

The refusal of the United Kingdom government to sign the Social Chapter of the Maastricht Treaty last November leaves the 11 remaining member states of the European Community free to move ahead with a comprehensive body of employment rights, unimpeded by the continual application of the brakes by its most reluctant member.

Unless the situation is rectified soon, by a change of heart or a change of government, the quality of life of people in the UK will gradually slip below that enjoyed by the rest of the community.

In this context, it is important to remember that our exclusion from the potential benefits of the Social Charter does not absolve the UK government from its responsibilities under existing EEC law.

In particular, Article 119, together with the three equality directives 1 - enacted during the 1970s, before the UK adopted its now familiar negative role - still provide powerful ammunition for improving the position of women in the labour market. Recent decisions emanating from the European Court of Justice (ECJ) have clarified the scope of these laws, compensating, to some extent, for the shortcomings of the new generation of diluted and aborted directives.

It is now ten years since the European Court held that the UK Equal Pay Act failed to meet the standards set by Europe, by requiring a woman to compare herself to a man employed on the same or broadly similar work and so precluding equal pay for work of equal value comparisons, where the men and women were employed in different work. It is eight years since the government amended the legislation to permit equal value claims. Its reluctance to take this step is reflected in the complexity of the provisions and the cumbersome machinery established for their enforcement. Several thousand women have filed claims under the new law, but most of these have fallen by the wayside or are still ensnared in the legal process. By the end of 1990, a mere 26 cases had gone through the full legal procedure; each case had taken on average 17½ months from the date of referral by the industrial tribunal to an independent expert (who compares the women's and men's jobs to determine whether or not they are of equal value) to the issuing of a tribunal decision. 2 This average is bound to rise, as many cases in the pipeline have already taken several years. In the absence of any collective mechanisms for enforcing claims, complex multiple applications are becoming increasingly frequent.

Despite these difficulties, there have been a small number of notable successes, largely due to the House of Lords' insistence on interpreting the new law so that it is compatible with European requirements. An example of this approach has been the broad interpretation of the word 'in the same employment', for the purposes of job comparisons, 3 thereby plugging a potential loophole which would have enabled employers to block a claim by employing one man alongside women workers.

The 'material factor' defence offers a major potential escape route for employers. It allows them to justify inequalities in pay, even where the jobs are of equal value. They are given the opportunity at the beginning of the tribunal hearing to argue that the variation in pay between the men and women is 'genuinely due to a material factor which is not the difference of sex'. The case may be dismissed at this point: if, however, it proceeds to a full hearing, the employer may raise the same defence later on, after the tribunal has received the independent expert's report. Some tribunals have accepted 'historical differences in bargaining structures' as a material factor defence; others have had the sense to recognize that bargaining procedures can be tainted by sex discrimination. 4 Fortunately, the ECJ has established rigorous standards of justification for employers using this type of defence. 5 The Court has also made it clear that where pay systems lack transparency, the burden of proof lies with the employer to show that the system is not discriminatory and that all the criteria used to pay increments have been justified. 6 The European Court has also extended a lifeline to part-time workers by ruling that if they are predominantly women, their exclusion from employment benefits such as sick pay and severance payments constitutes indirect discrimination, unless it can be justified by objective factors unrelated to sex. 7 Much needs to be done to ensure that these remedies are given practical effect. It is essential that the procedures for claiming equal pay are unencumbered and that effective collective mechanisms are made available.

The wages gap between men and women has closed only slightly during the last 15 years and in 1991 still stood at 69.7%, or roughly £600 a week. More than two thirds of adult workers earning below the Low Pay Unit threshold in 1991 were women. There is, as often with civil rights legislation, a gap between the rights and remedies which the law purports to give and the delivery of those rights and remedies to the people for whom they were intended.

Notes
1. Article 19 established the principle of equal pay for equal work and a broad definition of pay. The three equality directives were concerned with equal pay, equal remuneration in employment and equal treatment in social security.
5. European Centre for Women's Health Research (1994) E/14/1, 14/2, 14/3 and 14/7, Equal Pay.
8. Women's Rights and Remedies in the UK. E/14/2, Equal Pay.

For more information about the Campaign, please contact: Jeanne Gregory at Middlesex Polytechnic, Queensway, Enfield, Middle EN3 4SF or on 0602-230303.
Keir Starmer provides a brief synopsis of the Haldane Society’s submissions on magistrates courts to the Royal Commission on Criminal Justice.

As the first part of its radical justice campaign, the Haldane Society of Socialist Lawyers has made wide-ranging submissions to the Royal Commission on Criminal Justice. These include detailed comments and proposals about the important cases the Government seeks to set up the Commission. Equally, they emphasise the extent of injustice throughout the criminal justice system. The Society has urged the Commission not to limit its critique to the high profile cases. They were noted as being a series of ‘one-off’ mistakes with special features. Every day the inequality of the criminal justice system is apparent. Moreover, this inequality manifests itself well before a case comes to court. It can be traced back to questions such as policing priorities, policies and operations. Some groups within our community are targeted by the police in their ‘prevention’ or ‘detection’ of crime. Studies have shown that colour of skin and a person’s means and locality affect the likelihood of being stopped and searched and/or arrested by the police. Once arrested, the same features will affect treatment in the police station and the prospects of bail. Perhaps even more damming, those same features play a part in the disposal of cases, particularly in the Magistrates Court. Since these laws are numerically, with the bulk of criminal cases, the Society urged the Commission to thoroughly examine their operation. The experience of many of our members who work in these courts is one of sheer frustration at the institutional bias and disregard for basic principles of justice.

Marking the magistrates

Pursuant to this we made a series of proposals for immediate reform of the Magistrates Courts. We do not suggest that these reforms are all that can or should be done.

The right to trial by jury, although a long established principle, is, in fact, denied to the majority of people charged with criminal offences in this country. Not only are all those charged with ‘summary offences’ kept in the Magistrates Court, but increasingly the Crown Prosecution Service makes cynical decisions in respect of ‘either-way’ offences. Many such offences are reduced to summary only offences at the first court appearance. Often, the sole purpose of this is to ensure that the trial remains in the lower court, without a jury.

The right to trial by jury is an important factor in the delicate balance between the power of the state and the freedom of the individual. The further it is restricted, the greater the imbalance. Despite the inevitable increase in costs, the Haldane Society urges that there be a right of trial by jury in all criminal cases.

Fair play

It is a recognised principle of democratic and international law that an accused person should know the case against him/her in order to prepare his/her defence (see, for example, Article 6 of the European Convention on Human Rights). This principle is not recognised in the Magistrates Court. Often the first that a person will know of the details of the Crown’s case is when the prosecution witnesses give their evidence in court. The only grounds for this blatant disregard of the principle of advance disclosure are financial. The Haldane Society recommends that there be a right of full advance disclosure in all criminal cases.

There is a genuine and deep-rooted feeling by defendants and lawyers alike that discrimination and institutional bias operate throughout the Magistrates Court system. Certainly, neither stipendiary nor lay magistrates properly reflect or represent the communities over which they preside. People are convicted day after day on the basis of value judgments, rather than on the evidence. Submissions which, for example, touch on unlawful police behaviour, are routinely rejected, despite clear evidence that such behaviour is an on-going phenomenon. Often, the decision to convict is announced immediately the defence case finishes - without even a short adjournment to consider the evidence in its totality. The time has come for a radical reform of the magistracy. The Haldane Society recommends that there be a right of full advance disclosure in all criminal cases.

Other subjects covered include, the Right to Silence, the Prevention of Terrorism Act, the Police, Custody Evidence, Access to Legal Advice, the Prosecution, the Judiciary, Committal Proceedings, Pre-trial Disclosure and Forensic Evidence. Copies of the full text of the submissions are available from Keir Starmer, c/o 11 Doughty Street, London WC1N 2PG. Price: £2 to non members.
On 16th April 1988, US warplanes, operating from British bases, bombed Tripoli and Benghazi, killing many civilians, including Colonel Gadafi's step-daughter.

The raid was, allegedly, carried out in response to the death of a US serviceman in an explosion at the La Belle Discotheque in Berlin. It has since been established that Libya was not responsible. Justified self-defence, or were Britain and America guilty of war crimes?

Now, the Libyans fear the same, or worse, as Britain and the US demand the extradition of Libya's Abdel Basset Al-Megrahi and Ali Fhiman. They face warrants alleging that they conspired to destroy Pan-Am Flight PA103 which crashed at Lockerbie on 21st December 1988, with the deaths of 259 passengers and 11 residents.

In November 1991, Bill Bowring and Jane Coker of the Haldane's International Sub Committee travelled to Libya on a fact-finding mission; and on 26th January 1992, Bill Bowring and Kate Markus met Maghur Kamel, Counsel for the two accused, and Khalifa Bazelya, Director of the Department for International Organisations at the Libyan Foreign Office, who had recently returned from the UN Security Council in New York.

We take the view that international law is, for once, quite clear. By customary international law, Libya is under no obligation to extradite the men in the absence of an extradition treaty. There is none. By Articles 6 and 7 of the Montreal Convention 1971, ratified by all the States concerned, Libya is under an obligation, in the absence of an extradition treaty, to take the men into custody, carry out an enquiry, and submit the case to its competent authorities for prosecution.

Libya has taken the men into custody, and has appointed a Supreme Court Judge to investigate. He has requested that the British and US authorities supply him with the necessary evidence. They did not reply.

Art. 14 of the Convention says that if a dispute between parties cannot be settled by negotiation, then any of them may submit the dispute to arbitration. If after six months, the parties cannot agree on the organisation of arbitration, then any party may submit the case to the World Court at The Hague. Libya has requested arbitration; no response.

On 21st January 1992, the Security Council unanimously adopted Resolution 731 (1992). Contrary to British media headlines, this did not demand extradition. Instead, it 'strongly deplored' the fact that Libya 'had not yet responded effectively' to requests to co-operate fully in establishing responsibility for the terrorist acts; and urged Libya 'to provide a full and effective response to those requests'. The Secretary-General was requested to seek Libyan co-operation. His representative was in Tripoli on 25th January.

The Arab League, at the UNSC session on 23rd January, supported Libya's position and proposed, with Libya's support, the establishment of a joint commission of the UN and the Arab League pursuant to Article 5 of the UN Charter to undertake an independent investigation. A number of UNSC Members, including Zimbabwe, Morocco and Cape Verde stressed that the accused should be brought to trial only on the basis of existing instruments of international law, such as the Montreal Convention. But Britain insisted that the Montreal Convention was 'not relevant'.

The Haldane Society condemns the threats of the US and Britain to take unilateral measures against Libya. We insist that the accused be tried by the proper and binding instruments of international law.

Libya is under no obligation to extradite the alleged Pan-Am bombers, according to Kate Markus and Bill Bowring who visited Tripoli in January.
The Phoenix Rises from the Ashes

Lord Mackay's controversial proposals to introduce a 'safety-net' into the Civil Legal Aid Scheme has aroused widespread condemnation. The Law Centres Federation, has responded with the most dynamic proposal for reform of legal services yet. Kate Markus, barrister at Brent Community Law Centre and Chair of the Law Centres Federation, explains why the proposal makes policy and economic sense.

In June last year the Lord Chancellor succeeded in bringing together some unlikely allies. He announced a new Law of Eligibility for Civil Legal Aid and issued a consultation paper setting out his proposals. They attracted almost universal opposition from the Bar Council, Law Society, Law Centres Federation (LCF), National Association of Citizens Advice Bureaux, National Consumer Council, Legal Action Group and Legal Aid Practitioners Group. Even the Legal Aid Board, with which the legal services and professional lobbies have rarely agreed, came out in opposition.

Scorched-earth

The root of the problem lay in the Lord Chancellor's Department's proposals to introduce a 'safety-net'. It would mean that all those entitled to legal aid, other than those in receipt of means-tested benefits, would have to finance the first part of their case up to a limit fixed according to their means. This could amount to as much as £1,100. Only after the limit has been reached will the litigant have their legal aid eligibility determined. The rationale for this was, in the Lord Chancellor's own words, 'if (litigants) are not prepared to spend their own money on their case, that is not a very good reason for us, as a taxpayer, to back them up'.

Almost all the relevant bodies attacked this proposal as a crude cut-out-exercise, which would exclude many people in need from the legal system while achieving little in terms of savings for the government. Some, including the Bar and the Law Society, said that the government should look at other means of providing legal services, including salaried legal aid. All, save the LCF, defended legal aid as the main form of publicly funded legal services provision.

LCF torch bearers

The LCF recommends a much more radical approach to the provision of legal services, founded on a thorough appraisal of meeting needs effectively rather than pandering to the vested interest of private practitioners.

Since the birth of law centres over 20 years ago, we have argued about the inadequacy of the legal aid scheme as a means of meeting the needs of the poor and working class. Legal aid practitioners are well aware of the financial and subject-matter limitations of the Scheme; of the bureaucracy, delays in payments and low fees, all of which serve as deterrents to both clients and lawyers. Finally, the Legal Aid Scheme does not ensure the state's shirking of responsibility to provide public interest remedies whether or not there is any particular individual who is able or willing to sustain an action.

Altered to eligibility levels, rates of remuneration for lawyers or the scale of the Legal Aid Scheme will not cure these grave defects.

Post-war embers

The fundamental problem, for government, lawyers and the public, lies in the origins of the Scheme. When it was conceived shortly after the Second World War, it was thought that problems of access to justice could be resolved if the State purchased commercial legal services in a limited range of areas on behalf of the poor clients. The result is hopeless confusion. Private commercial practices do not generally have the appropriate skills. Worse, the legal aid point, the strings drawn tightly by the Treasury, cannot possibly compete with commercial rates of pay in the private market. The cost of the Scheme, under pressure from the private sector, are rising faster than any other government expenditure.

At the same time, the Scheme continues to fail lawyers (who therefore do less and less legal aid work) and clients.

The stated concern of the LCF's find alternative, effective means of delivering legal services, while containing costs, can be achieved without excluding yet more people. The LCF proposals enable demand upon the Scheme to be managed, by targeting needs, by avoiding where possible the most expensive parts of the legal system (the courts) and by not forcing clients to pay their costs so that they are solved in the long term and benefit all those interested.

Free at the point of delivery

The LCF's starting point is that any legal services system must be locally based but centrally funded, sensitive to local need and able to determine - independently of local or central government - priorities in relation to such need. It must be accountable to consumers, free at the point of delivery, accessible, independent and confidential. The system must be capable of providing a number of services: general advice and legal casework; specialist services; strategic services.

A national unrivalled legal service would be capable of meeting needs and overcoming the existing problems. In each area of the country there would be a network of generalist, front-line agencies, providing the full range of services. They would combine much of the work currently is done by the advocate, solicitor and legal aid practice, but would also include areas of law not currently covered. They would also provide an initial point of access to other parts of the System and would refer to other agencies as appropriate.

Specialist agencies would vary. For instance, in some areas, it may be effective to set up a specialist immigration advice and representation agency.

A strategic approach

Each local area would also have strategic legal services centres, working closely with other local agencies and providing back-up. By taking a systematic overview, they would deal with issues that affect sections of the community rather than individuals alone. Through education, information and legal support, they would have a major preventive role. They would liaise with local statutory bodies, central government, and professional bodies, on behalf of local communities. They would participate in the development of national and social policy and law reform as well as developing new areas and methods of service delivery. The strategic centres would be a strategic development of local plans for legal aid and advice services.

Their community based management structures would be responsive and responsible to their client communities.

The third main type of agency would be regional and national specialist legal centres, each operating in a defined area of law. They would be small, in fact, the Public Law Project and the Child Poverty Action Group. They would offer training, research and specialist case work. By identifying issues at a regional or national level, helping to develop strategies and disseminating best practice, longer term solutions can be found, duplication avoided and local resources maximized.

Confronting Goliath

When the LCF first published these proposals, in November 1991, many lawyers' groups and the two main professional bodies felt that the correct issues were raised but the wrong solutions were put forward. It was (and still is) argued that a national unrivalled legal aid service would allow government to control, limit and cut the service. Of course, any government funded service is vulnerable to such attack. The government's proposals last year to remove Green Form from immigration cases shows just how vulnerable the Legal Aid Scheme is. The government's current call to cut legal aid in recent years (due to relative lowering of eligibility levels and rates of remuneration) are sufficient proof that a scheme which is in principle demand-led is nothing of the sort and is in fact controlled by public spending policy and the commercial market. Under a national unrivalled system, the Legal Aid Board would be required to report regularly and in detail to parliament and there would be statutory minimum provision which could not be changed without parliamentary debate. The provision of national, regional and local agencies, coordinated by their own national representative body, would provide some degree of independence from direct bureaucratic control by the Legal Aid Board - certainly more than has been the present direct relationship between individual solicitors and the Legal Aid Board.

It has been achieved by the professional lobbies that the LCF proposals would result in a second class service for the poor. The likely reality is quite the opposite. At present, most solicitors have a negligible involvement in legal aid work and are therefore incapable of providing a decent service in those areas. The Legal Aid Board's own figures in its 1990/1 Annual Report illustrate this sad fact. In that year, around 72% of all solicitors' offices received some money from the Legal Aid Board. 29% of these offices received an average of only £499, or 1% of the total of £40,562,759 paid by the Legal Aid Board to solicitors. The lowest earning solicitors' offices receiving any legal aid, (tragically 7% of the total) took £50. Those solicitors being large enough to have some areas of legal aid work would, under the LCF proposals, be able to provide a similar service but with assured and decent rates of remuneration, quality advice, business support and training, greater impact, and integration into a comprehensive system. There would be a career structure which would ensure that lawyers do not "burn out" or lose interest. The proposals will enable providers to provide legal aid services would continue to do so. During this period, funding arrangements would change from the existing scheme. It is likely, for instance, that solicitors' firms would undertake to do agreed amounts of work in particular areas in exchange for block payments. These would continue to be a role for an independent bar, however constituted, which would take referrals from the legal services.

The myopia factor

The arguments against a national unrivalled service come from the self-interest of the private lawyers' lobby who are exploiting the wide-spread concern about the decline in the availability of public legal services. It is interesting that these lobbies, while opposing the proposals in the England and Wales Review, adopt the same language as the Lord Chancellor when they insist, as he does, that "in public debate, the availability of legal aid appears to have become synonymous with the services of the Legal Aid Board." One wonders how such an assertion can be made convincingly when the majority of the public are denied access to legal aid under the Legal Aid Scheme.

It is high time that those who claim to be concerned about public legal services provision climbed down from the Legal Aid band wagon, as it gets to a halt, and built a vehicle which can survive the bumpy road ahead.
FOUR VERULAM BUILDINGS

seminars by & for practitioners

4 Verulam Buildings is a set of barristers' chambers dealing with a number of areas of the law. It is committed to widening the field of public legal education. It has a policy of offering public seminars on matters of current legal interest to a broad range of professional groups, given by specialists. The average cost for attending is about £70.

Seminars given already this year covered topics as diverse as 'Art and the Single European Market', 'Relief From Forfeiture After Billson', and 'Product Liability in the Construction Industry'. Forthcoming seminars will deal with damages for distress, inconvenience, loss of enjoyment and loss of opportunity; insolvency in the construction industry; and judicial review in housing cases. Others are planned. It is intended that all will be held at the Law Society in Chancery Lane.

If you are interested in being included in our mailing list for future seminars, please contact Neil Dinsdale, at 4 Verulam Buildings, Gray's Inn, London WC1 R 5LW.

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IF YOU WOULD LIKE TO ADVERTISE IN S.L., TURN TO PAGE 3 FOR DETAILS

The case of Sarah Thornton is old news. Or is it? Despite the release of Elizabeth Line during the first week in February, and despite meida assertions to the contrary, the campaign for reform of the law on provocation remain as critical as ever. Bethan Harris and Sonali Naik, both barristers and Womens' Sub-Committee activists, explain why.

Leave to appeal has been granted to Kiranjit Ahluwalia and Amelia Boniste, while Sarah Thornton's application for a pardon is under consideration. These are women serving life sentences for the murder of their male partners from whom they suffered horrendous domestic violence.

Last Autumn, the Women's sub-committee organised a public meeting on 'Provocation'. The speakers were Rohit Singh, solicitor for Kiranjit Ahluwalia; Pragya Patel of the Southall Black Sisters campaign group; George Delf from the Sarah Thornton campaign group and Ed Fitzgerald, barrister representing Sarah Thornton in the Court of Appeal.

Sarah Thornton's case is, of course, well known. Since the rejection of her appeal, there have been further developments. Bada Rajinder Singh recently received a suspended sentence, having estranged his "nagging" wife. Shortly after, Elizabeth Line received an 18 month suspended sentence, having stabbed her husband 17 times after his repeated violence, including rape. Line's case has been cited in the media (see article, The Independent, 4th February), as having taken the wind out of the sails of those who argue that the law effectively discriminates against women. The facts of her case were, however, distinguishable from the other cases in that she thought her husband was carrying a knife at the time when she stabbed him. The fact remains that the present law is totally inadequate and fails to accommodate essentially female responses to violence which involve a delay between the act of provocation and the killing.

Their cases have aroused criticism that the law is geared towards essentially male responses to provoking acts. A man is more likely to lash out on the spur of the moment. Female reactions are more likely to involve a 'cooling off period' which falls foul of the rule that there must be a sudden and temporary loss of self control in R v Duffy [1949] 1 AER 592.

The injustice is mitigated to some degree by the acceptance by prosecution and judge of a plea of guilty to manslaughter in cases where, on the application of the rule in Duffy, murder would be the correct charge—see R v Mack, The Times 3rd December 1960, where the father was said by Lord Lane CJ to have been lying unconscious on the mattress upstairs when agreement was reached that he must be killed; and R v Rashiffe, The Times May 13th 1980, in which the accused borrowed a kitchen knife from a neighbour, intending to kill her husband, and six days later did so. It is astonishing that other cases such as those mentioned above have not been resolved on this basis.

Jack Ashley MP's proposed Bill provides that, for the purpose of the 1957 Homicide Act, the rule in Duffy (a pre-Act case) be revoked so that a provoked loss of self-control need not be sudden.

Though a step forward, this small amendment would, nevertheless, still leave some deserving defendants without a defence to murder. Cases like that of Sarah Thornton fall between the two stools of diminished responsibility and provocation. One proposal being canvassed is the replacement of the strict categorisation of defences by a broader defence of 'killing in extenuating circumstances'.

Clearly any comprehensive reforms is a long way off. In the meantime, we must hope for a positive move from the Lords to the Court of Appeal and call for the early release of Kiranjit, Sun and Amelia.
Outside In

Murmuring Judges, by David Hare, National Theatre

Black, Misk’s departure gives him the opportunity to cast a tolerant, yet critical eye over the terrain of crime fiction. For this issue of SLI, I have selected three recent novels which I hope you will find diverting.

Deep Sleep is Francis Fyfield’s fourth novel. As before, it teams up D.G.L. Bailey and Helen West of the Crown Prosecution Service. Set in East London, Hermitage Parade is a mixture of sharp wit and textured facts above. On the corner is an ordinary shabby pub where navies wile away their luncheons, drinking pints with whisky chasers. Opposite, the New City of London rises from the rubble of the old. Philip Carlton, of Carlton’s Caring Chemist, is ‘Uncle Pip’, a staunch and kindly figure. Sexually abused by his now dead mother and aunts, Pip has discovered the aphrodisiac qualities of chloroform and, retreating from the chokey shop to the pristine backroom, he conjures up the fantasy of his assistant, the youthful Kimberley, in his lonely masturbation.

Fyfield is good at spirit of place and creates a sinister, claustrophobic atmosphere that lingers. One morning Pip’s wife Margaret is found dead in suspicious circumstances, but is it murder?

The police think not, but when the file lands on the hospital bed of Helens West, she suspects otherwise. The plot is further complicated by Bailey’s colleague, who happens to be Kimberley’s husband, and who is convinced she is having an affair with Pip.

The author’s use of the vernacular is occasionally clumsy and, at times, the inconsistencies in behaviour and speech strain credibility. There are missed opportunities of character development, but on the whole these do not detract from the overall impact. The themes of addiction, isolation and obsession are deftly handled, in particular, the relationship between mother and child, and the obsessive jealousy of the spurned husband. But it is the neatly stashed and lavender scented figure of Uncle Pip that is Fyfield’s most complete creation.

Good, But Hot is a fast, cartoon style romp, and the purported result of a meeting in late ’70s New York between Manhattan Private Investigator, Sam Murchison and the author, Antoine de Caunes (oblivious host of BBC2’s ‘Rapido’ for all you late night viewers - Ed.). Murchison, part Robert Mitchum with a dash of Clint Eastwood circa ‘Dirty Harry’, is a hard drinkin’, halfy kinda guy. Glen Belmont, an unpleasant Miami businessman, hires him to find his missing daughter. Armed with a tray of Magners and club in hand fresh from Tinkus Chinese Cleaners, Murchison sets out to track her down and soon realises this is not the simple case it appeared. As the book builds to its inevitable conclusion, the body count gets higher and higher.

On a current level all this works reasonably well. But the lack of any real depth or character development is extremely irritating, as are the offensive and dated ‘Polish’ jokes. The unfiltered Film Noir effect is lost in a morass of local colour that becomes a parody of the French obsession with NO’s Americana. Murchison is a P.I. who thinks mostly with his balls, an uneasy situation, given the Magnum girding his loins. If, as promised, we are to have further adventures with Murchison, I suggest judicious use of the blue pencil and polish instead of too many Jack Daniels!

Since 1964, Ruth Rendell has written over a dozen books, including the Inspector Wexford series. In recent years, she has written four novels under the pseudonyms of Barbara Vine, King Solomon’s Carpet is the fifth. The setting is North London, a favourite location for many of her earlier novels. It is a devastating work of fiction. A decaying house, once a school, overbodies the Jubilee Line, Jarvis, the owner, is writing a book about the London Underground. From the arteries of the tube, alive with the sound of bookers, come people looking for refuge from bruised and damaged lives.

But amongst them is one who seeks revenge. The demeneance is both shocking in its plausibility and its melancholic sadness. This is a superb portrait of London in the early Nineties - a glimpse of the dank and dangerous underbelly of the City. The book transcends its genre and is destined to become a classic. (Ruth Rendell was awarded the Criter Diamond Dagger by the Crime Writers Association in 1991.)

Thus all for this issue, now, back to the bookcase!!

Good, But Hot, by Antoine de Caunes, 4th Estate, £5.99;
King Solomon’s Carpet, by Barbara Vine, Viking, £8.99.

Nemesis is Roger Lavers
Haldane Society Sub-Committees

At the heart of the work of the Haldane Society, lie the various sub-committees, which cover a broad range of issues and whose work includes campaigning as well disseminating information and stimulating discussion on the particular area. All members of the Society are encouraged to join one or more of the committees in order to form new ones. Interest has already been expressed in setting up an Environmental sub-committee and volunteers are asked to contact Keir Starmer at 11 Doughty Street, London WC1, tel: 071-4041313. We would also like to revive the Housing and Immigration Sub-Committees and would welcome suggestions. Below are listed details of the different committees, including the relevant contact person.

Lesbian and Gay

Newly established, this committee is interested in developing both an educative and campaigning role. It is currently organising a public meeting on 'Sexuality and the Law', due to take place later in the year. Contact: Trua Payne and Stuart Walker, 23 More House, Temple.

Trade and Union Employment Law

Ongoing work includes submissions to the Labour Party on reforms of trade union, employment and discrimination laws, provision of articles to union journals; trade union education courses; assistance to workers in struggle. Meetings take place every month at the London School of Economics. Convenor: Simon Gibbons, tel: 071-254 9635.

Northern Ireland

This sub-committee is currently preparing a detailed report following its delegation to Northern Ireland last September and will be campaigning on the Casement Park trials (see NL, issue 14). Work is also underway to organise a full day's seminar on Northern Ireland to take place at the Society's AGM on 16th May. Members will be contributing to the Northern Ireland Human Rights Project assembly, organised by the British and Ireland Human Rights Project, 6-8th April (see Noticeboard for details). Convenors: Fais Musa, tel: 071-353 5992 and Nadine Finch, tel: 071-404 1113. Meetings: 1st Tuesday of every month at 11 Doughty Street, WC1.

Crime

This sub-committee continues to organise regular evening seminars and day courses on topical issues of interest to students and practising lawyers. Some of these now carry Law Society continuing education points. Meetings on the 4th Wednesday of every month at the London School of Economics; room A/44 to discuss procedure and politics. Convenor: Jo Cooper, tel: 071-2549514.

International

The sub-committee is currently campaigning against non-intervention in Libya (see article, page 23) and is assisting the newly formed Africa Sub-Committee. It is organising a conference on 'Socialism, Democracy and the New World Order' which will take place in the autumn. Watch out for details. Meetings are on the last Thursday of each month at Verulam Buildings, Grey's Inn, London WC1.Speakers are invited to talk on a new topic at each meeting. Recent speakers include Alan Freeman (on Defence of Democratic Socialism in the former USSR) and Arif Raymond of the Black Liberation Front. Convenor: Bill Bourne, tel: 071-405 6114

Mental Health

This sub-committee has been working with WISH (Women in Special Hospitals) and ENQuest. It is currently investing a day psychiatry scheme. The next meeting is on Wednesday 4th March at 4 Blackfriars Temple. Convenor: Fiona Morris, tel: 071-353 5992.

Africa

This committee is newly formed, following the success of the Africa symposium held last December (see article on page 13). It plans to network with other pressure and interest groups concerned with democracy in African countries. No meeting dates have been announced as yet, but for more information, please contact Yousr Galloway, Beacon House, 127 Knutsford Road, M S S Q V, tel: 071-326 0264.

Women

Continues to support the campaigns to the law on provocation. Convenor: Sonali Naid, 911 Doughty St, WC1 N ZPG.

Launch of the Haldane Educational Trust

Wednesday 18th March

7.00 pm - 9.00 pm

Speakers: Stephen Sedley QC, Keith Ewing and Kate Marks Followed by drinks.

At the Refreshments Room, HAGTE Offices, 97 Britannia Street, Kings Cross, London

After 12 months of preparation, the Haldane Educational Trust is to be launched on Wednesday 18th March. All members and friends of the Haldane Society are welcome to attend.

No one can deny the important role which the law plays in both domestic and international affairs. In many instances, law defines and determines our liberties, rights and responsibilities. Yet, the vast majority of people are unaware or do not have the opportunity of understanding the laws which govern their lives.

Even those who are trained as lawyers are often unable to act in many areas of the law because legal education and training is deficient. This means that rights are often not exercised effectively and the law not used where it otherwise could.

The Haldane Educational Trust seeks to advance legal education at all levels. It will be informed by three main concerns:

- That substantive law and legal process fail to secure the rights of the majority of poor people and the poorer or under-developed countries of the world.
- That rights are determined by both domestic and international law and by the activities of states and transnational corporations, internally and internationally.
- That there are fundamental human rights, already given legal recognition by a variety of instruments, which are nevertheless applied unequally between rich and poor, powerless and weak.

The work of the Trust will be managed by 12 trustees who have been selected for their ability to represent a variety of interests and to bring the necessary legal and organisational skills to the Trust's work. Most of the trustees will be available at the launch to discuss the work of the Trust.

Judicial Review Seminar in Belfast

20th March 1999

The Public Law Project are organising a seminar on Judicial Review, featuring how to draft grounds and discovery. Speakers are: Brigid Hadfield - Head of the Public Law Department, Queen's University Paul Maguire - Law Lecturer, Queen's University.

For further details please contact Pat Burgess, SLS School of Law, Queen's University, Belfast BTI 1NN

Northern Ireland Human Rights Assembly

6th-8th April 1992

This major conference will examine the human rights aspect of the conflict in Northern Ireland, with particular reference to the international obligations of the UK government. International commissioners and observers will focus on the sorry record of human rights violations which have accompanied the unresolved conflict over the past 20 years. Submissions from lawyers with experience of these matters are invited. We also welcome volunteers to help run the conference and donations.

For further details please contact Joan Winter at the British and Ireland Human Rights Project, 95 Hillbrook Road, London SW10 8PF.

Dear Eds.

I refer to the last issue of IL, to Beth Prince's final column, and to the grandeur which you throw down "...to any budding new activist..." to produce something to fill the space, until recently occupied by Black Mark's battered feathers.

I do not think that a fashion page is a good idea. Lawyers, and particularly male ones, have a style which, though it is peculiar to themselves, is far from cardinal.

(i) shirts: broadg (preferably M & Co., for counsel, Russell and Bromley). Must exhibit the sort of patina which can only be cultivated by years of exposure to the elements outside convey cars with inadequate conference facilities.

(ii) jackets: in most cases, preferably dark, but caution: when defending nick musicians, crooked politicians, or those implicated in the drunken use or imaginative sale of motor vehicles, it is usual to eschew the sober pristine in favour of something in pale grey with a raffish aquamarine check.

(iii) trousers, preferably a shade which is at least roughly proximate to that of the jacket. (NB: trousers and jacket forming a suit should generally be worn together, or at least on successive days) (NB2: though the boozes will usually be contained within the seat of the pants cf. fashion notes for the general labourer" - it is customary for the belly to be won over the waistband.)

(iv) shirt: when appearing before the licensing bench, don't be afraid to bring out the mauve and green bold-striped number, with crushed-bung-glider collar and cuffs so thick they can only be held together by clufkin the site of manicure holes.

(v): those aiming at fashion-standard (iv) should try the brown and grey chevrons, tied, as ever, with the most confident Windsor you can manage without damaging the clavicle; in matters of length, it is usual for the narrow, or " neat" point to dangle at least six inches beneath the fastest front one.

(vi): hair not recommended.

Having said all that, how would you fill succeeding issues? I suggest the following: a. Most ingenius plea in mitigation (for the Dadd, K Handcrafter). B. Statistic: a regular feature, this - we all know what percentage of detainees is likely, at any one time, to be female, or black, but what is the ratio to the general prison population of (a) professional footballers; (b) rotaries; (c) the guilty.

David Hewitt, Blackpool.
HALDANE SOCIETY of Socialist Lawyers

The Haldane Society was founded in 1930. It is an organisation which provides a forum for the discussion and analysis of law and the legal system, both nationally and internationally, from a socialist perspective. It is independent of any political party. Its membership consists of individuals who are lawyers, academics or students and legal workers, and it also has trade union and labour movement affiliates.

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The sub-committees of the Society carry out its most important work. They provide an opportunity for members to develop areas of special interest. Full details are on page 30 of the magazine.

As a member of the Society, you will receive 3 free copies of Socialist Lawyer each year and are eligible to contribute to the work of the magazine. You will be informed of the Society's public meetings which are free to all members. You will also have access to one or more of the sub-committees which meet regularly. Through these sub-committees you will have the chance to participate in and organise international delegations.

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