



# Justice for All

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## A new era dawns for the party

by Fraser Whitehead, Chair, Society of Labour Lawyers

There can be no doubt that this Society's primary focus over the next two to three years will be maximising our potential to ensure a continuing Labour government.

But before I turn to how we can work on that important task, there is another essential matter to deal with. That is to reaffirm the society's grateful thanks Ross Cranston who retired a chair at the AGM in December. Ross was the most recent in a line of distinguished society chairs. A leading academic and parliamentarian Ross's commitment to the society and his contribution as chair were very considerable. A passing glance at just some of his publications, ranging from commercial globalisation through banking law, the process of civil justice to legal ethics and an analysis of his career through the academic world into Parliament and the office of Solicitor General, and now as LSE Centennial Professor of law is a humbling experience. That he should have made available to the society the assembled benefit of his knowledge and experience from these great ranks and put it to such good use was an enormous privilege. Ross lists amongst his leading achievements the securing of compensation for vaccine damaged children and making a positive difference to peoples lives. Those of us who worked with him know well that he made a positive difference to the Society of Labour lawyers too. To Ross many, many thanks.

Happily Ross's contribution to the society is not at an end. He will be continuing to work with us as chair of a new academic research group, one of 10 society working parties. These focus on all key areas of legal activity and I encourage every one of you become more active in the society by joining at least one of these groups. It is through these groups and by contributing to our ideas on developing legal policy in an affirmative way that we can help our party continue to govern the country for the benefit all the people with in it.

Within the society, we all always regarded it as preferable and appropriate not to become collectively involved with the politics of the party. This is a difficult objective at times, but one that has served us well and not least because our constitution directs us to support

all within the party whenever they call upon us. It is always risky for a chair to offer political analysis, particularly at a time like the present. Nonetheless on one matter and that is legal aid, we do have a particular experience to make available to others. Government policy must be pragmatic, ensuring that the required level of legal support is always available to those who genuinely need it and cannot reasonably fund it themselves. That is the hallmark of a just and fair society and as important a social service as any other. We recognise the changes to current arrangements that can improve efficiency and reduce cost, benefit the user and should be supported. But our experience suggests one important proviso. The pace of the transition from the old to the new must not be such as to put in jeopardy the objective. We can neither afford to abuse nor lose the commitment and integrity of decades of practitioners who have worked to deliver our party's historical policy on social justice.

In the wider context whilst much has been achieved in the last 10 years there can be no denying that we need to reconnect with voters with a new agenda. But in doing so we must recognize to that time has moved on. This is a new world and people, particularly younger people, have changed expectations. In setting our agenda we must recognize the impact of the global economy and redefine how we can shape Western Europe's contribution. If we do not we may be left only with what is euphemistically known as managing expectations. So this is not a time for going back. It is a time for moving forward in new ways.

In this process we lawyers have much to contribute. The creation of laws that our government can offer as world standards of fairness, equality and justice, should be the starting point for our legal renewal agenda. Ending the rip off society, defining global harmony in employment standards, seeking new balances to meet the challenges of criminal and social disorder....

Time to get to work.

# Westminster Workshops

The Westminster Workshops are a series of summer evening meetings to set the agenda and develop policy. Admission is free and the meetings are open to both members and non-members of the society.

## Discrimination Law Workshop

Where next?

Venue: Portcullis House, Westminster  
Date: Tuesday 26th June 2007, 6.30 p.m.

There is probably no more dynamic an area of law than discrimination law which touches upon all our lives and probably on a daily basis. From the heady and distant days of the Race Relations Act in the mid 60s, through equality discrimination and up to the present time we now have a framework of discrimination laws covering a myriad of applications. There is probably no greater example of the law being applied as the tool and mechanism for significant social engineering. And with significant success.

But where will discrimination law go next? Has it reached its boundaries? If not is "Appearance Discrimination" the next frontier and what after that? Or is enough, enough? Are we in danger of saturation to the point where laudable objectives and achievements may be undermined? Should we concentrate in making the existing law more practical and effective and if so what needs to be done and what are the priorities?

These and many other issues including important recent developments within existing law will be the subject of analysis by well-known discrimination practitioners. Chaired by Paul Daniels, leading discrimination partner at solicitors Russell Jones and Walker and with distinguished panel members including Damian McCarthy and Ed Williams from Cloisters, Jill Brown of Outer Temple and Karen Monahan QC from Matrix Chambers this promises to be a lively and informative exchange of views which everyone with an interest in this area of law should attend.

## Criminal Law Workshop

*"Prison is an expensive way of making bad people worse"*: Discuss

Invited speaker: Lord Falconer, Minister for Justice  
Venue: Portcullis House, Westminster  
Date: Tuesday 3rd July 2007, 6.30 p.m.

When the government took office in 1997 it was determined to deliver on the pledge to be "tough on

crime, tough on the causes of crime". A decade later the prison population passes 80 000, causing overcrowding and damaging any chance of training or rehabilitation. Does the new Ministry of Justice, and the changes in the Party leadership, offer a real chance for change?

At this year's Society of Labour Lawyers' Crime Group Westminster Workshop we will examine what can be done. Is a policy of imprisoning the dangerous and moving the dishonest, the mentally ill and the pathetic out of custody possible? How can it be sold to the public? What balance should the government strike? How do we deal with the judges who resolutely refuse to countenance passing community sentences on offenders who, anywhere else in Europe, would not end up in prison?

## Constitutional Law Workshop

*"A Written Constitution: technicolour dream coat or straitjacket"*

Venue: The Wilson Room, Portcullis House, Westminster  
Date: Thursday 14th June 2007, 6.30 p.m.

Constitutional change has been a significant part of the Governments policy since 1997 with Lords reform perhaps being the most obvious aspect. However in many other areas there have been fundamental reforms; the areas of devolution, the Human Rights Act and the European dimension perhaps being the most significant.

What has not yet been formally mooted is the question of a Written Constitution, although a Bill of Rights and Crown Prerogative have featured in the Tories and Gordon Brown's speeches over recent months.

The issue of a Written Constitution is potentially an enormous and wide ranging subject. At one end of the spectrum would be simple codification of our existing arrangements into a single accessible document. At the other end could be root and branch reconsideration of the whole structure of our constitutional arrangements including voting systems, the role of the monarchy and Crown prerogative, the structures of government and the functions of Parliament, the Executive and the Judiciary.

# Westminster Workshops (continued)

At this meeting our guest speakers, Keith Ewing, Professor of Public Law at Kings College, London; Rob Hazell, Professor of Government and the Constitution at University College, London and Stephen Hockman QC, former Chairman of the Bar Council will explore some of the issues raised by these questions

All the meetings take place at Portcullis House at 6:30pm. This is part of the Houses of Parliament. Enter Portcullis House from Victoria Embankment and the staff there will direct you to your room. Let our administrator, Lucie Wibberley know if you are attending so that any changes to times and venues can be notified and the right room size obtained.

Lucie Wibberley (SLL Administrator):  
*Lucie.Wibberley@steelandshamash.co.uk*

Fraser Whitehead is the new chair of the society. Only the second solicitor to hold this position, Fraser is a partner in national law firm Russell Jones and Walker and practices primarily in workplace issues including trade union, health and safety, employment and industrial injury law. Fraser is active in legal politics being a council member of the Law Society and chair of its Dispute Resolution Section. He's been a member of the Society's Executive for over 20 years and for the last 10 years had been the society secretary.



Who will be big  
 Gordie's number 2?

As John "away and raffle your doughnut, Lord Chief" Reid submerges under a tidal wave of "Crises, what crises?", the leadership contest seems all over bar the "Och the noo"-

ing, But what of the race for the deputy? As regulars will know, this column aims to adopt a stance of near-Olympian height, far above such grubby things as elections, but after sustained demands from my mass readership (Sid and Doris Bonkers, JP) here we go:

Fraser Whitehead: As tall and as Scottish as you could wish. Cerebral yet thrilling - think Jean-Paul Sartre in tartan trousers; this outsider may yet claim the crown if chairing the Society of Labour Lawyers does not take up all his time (There. It is said; now can my piece be moved to a worthy slot on page 2, instead of down here with the name of the typesetters? [No, Ed.]).

Hazel Blears: Fact: The Labour Party has never won an election with a deputy chair below 5'1". The knockers and sneerers will, no doubt, point out that

we have never lost one either, but I disregard this as typical New Labour pedantry. Similarly, some will claim that my painful honesty is offensive to the next growth area for the discrimination industry. Well, you'll never take me alive, little copper.

Peter Hain: He can quite properly boast of abolishing the eleven plus in Northern Island. The mere fact of a fake tan ought not to, heaven knows, prejudice anyone. In addition, his record in government includes inflicting serious damage upon the eleven plus in the North of Ireland. And heaven knows, the mere fact he was a Young Liberal ought not to prejudice anybody. But it does.

Hilary Benn: Sisters, beware. This is a man. And not only a man but a son of old "in thish great party of ours, blah, the Levellers, blah, zzzzzzzzzzzzzzz." No scions of dynasties here, eh comrades?

Harriet Harman: Good pal of the Society. There is the draw back that her old man is a tad fussy about some of the necessary finesse that accompanies party funding. She is disliked by many judges and a number of prosecution lawyers who TC has overheard in the wine bars of the Temple bemoaning her political correctness; this is a very good thing. Taller than Hazel Blears, more authentically pigmented than the ex-liberal Hain and no Viscounts clotting up her DNA. You must choose!

# Can Human Rights Survive?

*Conor Gearty Professor of Human Rights Law at LSE speaking to the Society in November 2006*

We were fortunate in having Conor Gearty talk on the subject of his eponymous book of the Hamlyn lectures delivered in 2005. Conor, calling himself a critical friend rather than a bland cheerleader of human rights says they are a term which has achieved popularity without clarity, an idea reaching dizzying heights in politics while its philosophical basis is increasingly questioned.

The 1948 Universal Declaration of Human Rights, born out of the barbarism of world war, contains prohibition of torture cruel and degrading treatment, bans slavery, and guarantees economic social and cultural rights "indispensable for a person's dignity and free development", all provisions in the European Convention and now incorporated into UK law. The speaker considered the current crises in authority, legalism and security.

With the end of the Cold War in 1989 human rights came centre stage and provided an idea to "hold back the tide of the (global ) market and unmediated self interest" which may offer more effective protection than religion or reason did. But he argues that unless the question of the basis of its authority can be satisfactorily answered its future cannot be assured ; and he suggests that their success will depend upon the development of a widening idea of compassion if human rights are to be the champion of the voiceless and not destined to be the victims of an authoritarian state.

Conor further argued that the effect of incorporating human rights into British law has been to put them in danger of being separated from the sphere of politics, which is where in a democracy they should be. He instanced the US case of *Roe v Wade* as an example. He attributes to supporters of the supra-political view of human rights law , based on Locke 's and others view of them as pre-existing rights, responsibility for what could happen now when the Left has moved to the centre and judges seem less class-based. He does however acknowledge that the British HR Act is not protected against subsequent political attack; and it denies the courts the power to strike down legislation as incompatible with the HR Act. The House of Lords' decision in December 2004 held the detention system in place after 9/11 to have infringed the guarantee against unjustified discrimination contained in Article 14 of the Convention . It was one of twelve such. In the light of it the government introduced new law (the Prevention of Terrorism Act 2005). Conor Gearty pointed to the danger to our human rights based culture of the kind of hostility to it demonstrated by the tabloid newspapers.

In relation to security he acknowledged the anxiety which has gripped the public and asked how it is possible for attacks on what he calls the basic DNA of human rights- dignity legality and democracy- to take place under a human rights respecting administration. He makes it clear that in the absence of an agreed definition of terrorism he considers it to be political violence whether from governments such as the US bombing of Tripoli in 1986, or groups such as Al Qaeda and ETA; and sees the resolution of the Israeli Palestinian conflict to be an essential key to the problem.

He thought the failure to distinguish between counter terrorism laws and human rights is responsible for the redefinition of human rights but believed their embrace is not inevitable if the criminal law were used against those who break it. He recognised that the human rights movement should not be seen to be exclusively critical of the cruel acts of governments.

A vigorous question and answer session ensued. Human rights law is a subject which should be regularly reviewed by the Society.

## NOTICE

'Ballot Papers will shortly be sent to members (post 6th June 2007) enabling you to participate in the Leader/Deputy Election. Ballot Papers are being sent directly to each member of the SLL by the pollster Popularis, who we have retained to conduct this exercise for us. We strongly encourage all members to vote. All queries in relation to the process should be directed to our Returning Officer, Gerald Shamash, who can be contacted by e-mailing our administrator [lucie.wibberley@steelandshamash.co.uk](mailto:lucie.wibberley@steelandshamash.co.uk).'

## SPRING CLEAN

The Society of Labour Lawyers is currently spring cleaning its membership records. Our hope is to move the majority of our contact with members to e-mail only to reduce the society's costs. If you receive JFA by post but have an e-mail address that we don't know about please let us know - [luciewibberley@yahoo.co.uk](mailto:luciewibberley@yahoo.co.uk). Similarly if you know of a member who has lost touch encourage them to make contact so that we can collect their up to date contact details."