



**JUSTICE**  
Annual Review 2012



Advancing access to justice, human rights and the rule of law



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London  
August 2012



Dear Reader

It is with enormous pleasure that I present this annual review of JUSTICE's work from mid-2011 to mid-2012.

A particular highlight for me has been the establishment of a branch in Scotland. I was very pleased to attend the launch at the Faculty of Advocates in Edinburgh. You could not but be impressed by the numbers that turned out on a wet Friday night to welcome Scotland's newest not-for-profit group. The Scottish branch is led by an impressive group of lawyers on its council and executive committee. Liaison at the London end has been in the wonderfully competent hands of Jodie Blackstock. She has played every role from junior counsel at the Supreme Court to general organiser of the incipient branch.

We have had a good year in general for public events. In November 2011, we set up a wide-ranging discussion on press regulation as background to the Leveson review. In May 2012, we held a second successful fundraiser at the Institute for Contemporary Arts where we showed the classic Hollywood film *Judgment at Nuremberg*. In July, we staged a revealing conversation with Ken Clarke, the Secretary of State for Justice, at which he expressed his support for human rights and – more controversially – his concern at legal aid expenditure.

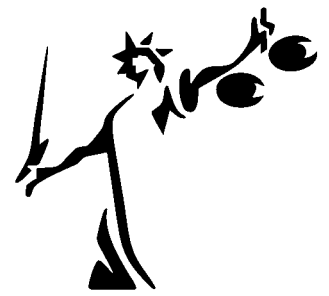
JUSTICE has continued its exemplary commitment to debate on the future and application of human rights. Eric Metcalfe's paper on surveillance was the sort of detailed, thoughtful look at a major topic of the kind that is the hallmark of JUSTICE's strength. The annual human rights conference continues to be a success and, as a member of the Bill of Rights Commission, I have observed with interest JUSTICE's detailed engagement in the discussion of this controversial issue. Through Angela Patrick, JUSTICE played a significant role in ensuring that the Council of Europe took an appropriate position on reform (of the European Court of Human Rights) urged on it by the UK government.

A final two points. First, this was the year that JUSTICE added tweeting to its communications armoury and you can follow us via @JUSTICEhq. Secondly, it was also the year in which our long-serving director, Roger Smith, announced his departure. There is no better testament to his work and that of our small, but absolutely excellent, staff than the contents of this review.

A handwritten signature in dark ink that reads "Helena Kennedy". The signature is written in a cursive, flowing style.

Baroness Helena Kennedy of the Shaws QC  
Chair  
JUSTICE Council

# A REVIEW OF THE YEAR'S WORK



JUSTICE has built its reputation on its ability to produce sustained and detailed analysis of key issues. In *Freedom from Suspicion: surveillance reform in a digital age* Eric Metcalfe left us the last of a series of publications which have proved of the highest value. In over 150 A4 pages, he dissects the failures of the Regulation of Investigatory Powers Act and sketches how it should be reformed. We published the report just after Eric left and used it as the basis of a discussion, organised by his successor, Angela Patrick, with Parliamentarians and other key players. *Freedom from Suspicion* was the latest in a series of JUSTICE publications on privacy that go back to 1970 when we first advocated a Data Protection Act. We are extremely grateful to the Joseph Rowntree Charitable Trust for its funding

Another of Eric's legacies has been the acceleration of the programme of third party interventions – ably taken on by both Angela and Jodie Blackstock. Ramifications of the 'war on terror' continue to dominate the cases in which we intervened. The most publicly contentious was undoubtedly the

Grand Chamber decision of *Othman v UK*, the case that involved Abu Qatada. The court decided that extradition should be resisted because there remained a real risk of evidence adduced by torture being used against him in a trial on his return. We argued for a stronger position – that he would have been at real risk of torture himself if returned – but played a major, and sometimes unpopular, role in publicly explaining the position of the court.

*Rabone v Pennine Care NHS Trust* illustrated a different type of human rights case. It concerned the duty of the NHS to treat voluntary and statutory patients similarly in relation to safeguarding their right to life. This case also illustrated collaboration with other agencies in such cases – we co-operated with Mind, INQUEST and Liberty in the submissions that we made. The intervention programme is possible only with the pro bono assistance of a large number of counsel and law firms, to whom we are indebted.

A further major achievement of the year has been the progress towards a Scottish branch. Our contact with a group of interested individuals in Scotland emerged from JUSTICE's engagement there – both in relation to the constitution and human rights, and in the aftermath of the *Cadder* case that bequeathed Scotland a police station duty solicitor scheme. We have applied for registration with the Scottish charity regulator and had a launch event on 13 July 2012.

We have continued to be involved in serious academic research in the field of criminal justice. Jodie Blackstock has overseen observers in Scottish police stations as part of the collaborative project, 'Suspects' Rights in Police Detention'. Other observers have been placed in police stations in



England, Wales and the Netherlands, and we plan to extend the project to France. Thus, the chain of JUSTICE's engagement in high level, empirical research in a European context extends now for almost a decade through a variety of projects which have involved domestic and Dutch universities, the Open Society Justice Initiative and others. The results of the current project should be published next year.

The addition of Angela Patrick's extensive knowledge of Parliament and her commitment to better relations with the media have borne fruit in terms of high profile lobbying on human rights issues – such as the proposals for closed material procedures or secret evidence. She has increased our contribution to the blogosphere and led our presence on Twitter (@JUSTICEhq), facilitated in its turn by the greatly improved website put in place by Sam Watson. Consult us at [www.justice.org.uk](http://www.justice.org.uk) to see a web presence which we think mirrors faithfully the breadth and quality of our engagement with human rights and the rule of law.

The major lobbying event of the year was the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) which involved Sally Ireland and then Jodie Blackstock leading on crime with myself on legal aid. Let me just add a personal note to the effect that I counted legal advice in during the early 1970s as the 'green form' scheme spread through what the Americans would call poverty law. I seem fated to count it out as a result of LASPO.

Angela has led for us on what must be the crucial issue of the moment: the drive to protect a commitment to human rights in the UK. She attended as an NGO delegate the Brighton conference of the Council of Europe, chaired by the UK government, that considered the role of the European Court of Human Rights. She was part of a successful lobby effort to prevent a major emasculation of the role of the court. She will be leading on the party conference fringe meetings in the autumn and on the work that JUSTICE plans to do in defending human rights from what may become sustained attack in the run-up to the next election.

We have kept up our long-held commitment to furthering open public debate of politico-legal issues. October 2011's JUSTICE Tom Sargant memorial annual lecture saw the Parliamentary Ombudsman, Ann Abraham, passionately defending the ombudsman system, first advocated by JUSTICE in 1961. And, in July 2012, we held 'Ken Clarke in Conversation', where the Secretary of State for Justice and Lord Chancellor discussed his experiences as lawyer, politician and minister with me in front of a packed and lively audience.

Finally, all the work above would be as nothing if JUSTICE's administrative systems did not work coherently. That has been the responsibility of Hayley Smith, who has left to study for the Bar, Liz Pepler and Samantha Burrige. In particular, we are indebted to Liz and Samantha for the stemming of the simultaneous and near catastrophic failures of Carter Lane's historic sewers and our younger, but no less defective, bitumen flat roof.

The consequence of all this activity is that I leave a JUSTICE team which continues to perform at the highest level, which one would expect, and working in dry conditions, which – had you seen the building for a couple of the wettest months in the year – you might not.



Roger Smith OBE  
Director, JUSTICE



# LOOKING TO THE FUTURE



Predicting the future is a hazardous business and a week is famously a long time in politics. However, set out below are our major objectives for the next year. Our over-riding priority is to ensure that the UK retains a commitment to the concept of human rights in general and to the European Convention on Human Rights in particular.

## Human rights

- to lobby members of the UK and European Parliaments on relevant legislation and to comment constructively on matters relating to the EU, criminal justice and human rights
- to hold fringe meetings at the UK party conferences, and to lobby all parties to protect the core principles in the human rights treaties, both in domestic and European Parliaments
- to intervene as a third party in cases in the public interest before the appellate courts
- to ensure that new Scottish branch focuses, at least in part, on the application within Scotland of the European Convention on Human Rights and EU Charter of Fundamental Rights

## Access to justice

- to be active in coalitions such as the UK Access to Justice Alliance and EU equivalents – such as the European Criminal Bar Association, Amnesty International, Open Society Justice Initiative and Fair Trials International – to improve access to justice in the UK and internationally
- to analyse critically proposals for criminal legal aid and poverty law
- to continue work on the joint project ‘Suspects’ Rights in Police Detention’ by researching the delivery of legal advice in police stations in the Netherlands, France, England and Wales and Scotland

- to continue work on the joint project ‘Achieving Best Evidence in European Arrest Warrant Cases’ with the European Criminal Bar Association and International Commission of Jurists
- to continue lobbying both within the EU and domestically on implementation of the Stockholm Programme – particularly on those measures concerning victims’ rights and procedural safeguards for defendants
- to work with the International Legal Aid Group on a project on developments in delivering legal services, and to assemble best practice through the lessons of international and European (and, in particular, Dutch) programmes

## A fairer criminal justice system

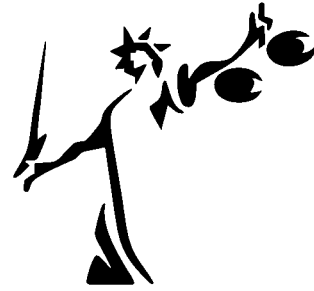
- to continue to lobby on the Legal Aid, Punishment of Offenders and Sentencing Bill and any subsequent legislation
- to hold a conference presenting the results of the European Arrest Warrant project
- to keep under review, and to participate in debate upon, the European Arrest Warrant

## A more sustainable organisation

- to extend use of our main and EU Charter websites, enhance communications with members and supporters, and improve press coverage
- to develop fundraising
- to continue to develop our student network and ensure that we include EU developments within its remit
- to continue to ensure our published output is of the highest standard and relevance



# HUMAN RIGHTS



**Eric Metcalfe's legacy on leaving JUSTICE was an authoritative analysis of surveillance and a critique of the Regulation of Investigatory Powers Act. His replacement by Angela Patrick, hotfoot from an advisory role with the Parliamentary Joint Committee on Human Rights was remarkably smooth. She has maintained our Parliamentary work and added a commitment to a greater use of the media.**

## Defending the protection of rights in the UK

A core part of JUSTICE's work continues to focus on the defence of the existing mechanisms for the protection of rights in the UK. The Human Rights Act 1998 – and, increasingly, the role of the European Court of Human Rights – has continued to be subject to criticism from both Conservative and Labour benches.

In November 2011, JUSTICE submitted its contribution to the consultation exercise organised by the Commission on a Bill of Rights. We argued that now is not the right time for this debate. The current exploration of a Bill of Rights is flawed – tainted by political influences and unlikely to lead to greater or more effective protection of our rights in the UK. If any changes are appropriate, they must meet minimum criteria for the protection of individual rights. Principally, the standard of protection must be improved by any reform, not reduced.

We continue to seek to influence the work of the Commission on a Bill of Rights. For example, in March 2012 we participated in an event jointly organised by the Arts and Humanities Research Council and the Commission, informing the Commission's deliberations.

Increasingly, critics have sought to focus the debate on the role of the European Convention on Human Rights and the democratic legitimacy of the decisions of the European Court of Human Rights (ECtHR). In 2012, the UK held the chairmanship of the Committee of Ministers of the Council of Europe. The UK government objectives set reform of the ECtHR at their heart. JUSTICE was involved at the centre of an influential group of domestic and international NGOs – including the International Commission of Jurists – working to preserve the independence and effectiveness of the court. This work included briefing each of the states of the Council of Europe through their diplomatic representatives, and engaging directly with UK officials and ministers through both written briefings and individual meetings.

On assuming the chairmanship, the Prime Minister drew a nightmare picture of the Strasbourg Court – somewhat confusingly growing over-powerful while at the same time at risk of becoming Europe's 'small claims court'. Through effective public commentary on the important role played by the ECtHR, JUSTICE worked to try to counter the widespread press criticism of the court and, increasingly, its judges. This work culminated in JUSTICE attending the Brighton conference on the future of the ECtHR, together with a handful of other invited observer groups. JUSTICE continues to work on the implementation of the Brighton Declaration, to promote understanding of the role of the court



in the protection of human rights standards across Europe and to preserve an effective and secure future for the court.

## Counter-terrorism, torture and accountability

In 2012, JUSTICE's work monitoring the counter-terrorism policies of the UK continued apace. In 2011, the Terrorism Prevention and Investigation Measures (TPIM) Act became law. JUSTICE continues to monitor the use of TPIMs.

JUSTICE has been active in a coalition of NGOs and others opposed to the proposed operation of the Detainee Inquiry – also known as the Gibson Inquiry after its chair – which would operate to investigate widespread allegations of complicity of UK intelligence officials in torture overseas. On publication of the inquiry's terms of reference and a restrictive protocol governing the disclosure of information provided to it, JUSTICE, together with other NGOs, the detainees and their representatives, announced our intention not to participate in the inquiry. The inquiry would have been unable to comply with the UK's obligations, under Article 3 of the European Convention on Human Rights (ECHR) and the UN Convention against Torture, to conduct an effective investigation into these serious allegations. We welcomed the government's decision to abandon the inquiry following the emergence of further allegations of complicity in torture in Libya and the announcement of further criminal investigations. JUSTICE will continue to monitor the progress of these criminal investigations. We will press for a full and effective investigation into the range of allegations of complicity of UK agents and agencies in torture.

JUSTICE continues to intervene in cases challenging the scope of the UK's agreements to deport individuals to countries where they face a real risk of torture, inhuman or degrading treatment subject to diplomatic assurances and memoranda of understanding (MoU). JUSTICE intervened, jointly with Amnesty International and Human Rights Watch, in the case of *Othman v UK*, the formal name for the case involving Abu Qatada, making submissions on the scope of the prohibition on torture in Article 3 ECHR and the MoU between

the UK and Jordan. During 2012, JUSTICE has intervened in both *XX (Ethiopia) v Secretary of State for the Home Department* and *Rahmatullah v Secretary of State for Foreign Affairs*.

A significant part of JUSTICE's work during this year has related to the government's proposals to expand the use of closed material procedures – and special advocates like those used in the Special Immigration Appeals Commission – to civil proceedings more generally. The government published the Justice and Security Green Paper in September 2011. Building on the important work in JUSTICE's 2009 report, *Secret Evidence*, we submitted a highly critical response, arguing that no evidence had been produced to illustrate that the existing system of public interest immunity was operating to endanger the public interest. Equally, compelling evidence had not been produced to justify the need to roll out these exceptional procedures across the civil justice system in a manner inconsistent with the principles of open and adversarial justice. We gave evidence to the Joint Committee on Human Rights, which condemned the government's proposals as ill-thought out and based on vague assertions and spurious allegations of risk. The Justice and Security Bill was published in May 2012 and JUSTICE has briefed decision makers, emphasising the serious legal and constitutional implications of these reforms designed to protect UK intelligence services from effective challenge.

## Privacy, the state and the press

In November 2011, JUSTICE placed itself squarely at the heart of the debate on the governance of state surveillance, publishing *Freedom from Suspicion: Surveillance reform for a digital age*, with the kind support of the Joseph Rowntree Charitable Trust. Building on decades of work by JUSTICE on the impact of the expanding use of surveillance technology – including the reports *Privacy and the Law* (1970) and *Under Surveillance* (1998) – *Freedom from Suspicion* provides an in-depth review of the operation of surveillance in the UK and calls for wholesale reform of the Regulation of Investigatory Powers Act 2000 (RIPA) to provide greater respect for individual privacy in important decisions about state surveillance. JUSTICE briefed the House of Lords on the Protection of Freedoms Bill proposals



on the reform of RIPA, working with peers to secure a constructive debate on the wider need for reform. In March 2012, we hosted a well-attended seminar for peers and MPs from all three parties in Parliament, exploring outstanding concerns about the expansion of surveillance without effective scrutiny. JUSTICE has commented on the compatibility of the government's new proposals to expand the ability of intelligence services and the police to access communications data and to monitor internet use by individuals. Our long-standing work on surveillance makes us uniquely well placed to participate in the current consultation on the draft Communications Data Bill.

JUSTICE has actively participated in the process of reform of the existing common law on libel to secure the right to freedom of expression while ensuring effective protection for individual privacy. In June 2012, JUSTICE briefed the House of Commons on the substance of the government's Defamation Bill, which we broadly welcome.

Reform of the press dominated political discourse in 2011-12 with the establishment of the Leveson Inquiry. In November 2011, JUSTICE hosted a high-level panel discussion on the options before Leveson. We published a paper in December 2011, setting out the options for reform and building on decades of work by JUSTICE designed to secure the effectiveness of the independent press and freedom of expression.

### Human rights law conference

The 13<sup>th</sup> Annual Human Rights Law Conference was held at the Holiday Inn Bloomsbury on 19 October 2011 and again attracted a strong field of speakers and delegates. The keynote address was delivered by Lord Justice Judge, Lord Chief Justice and followed by a review of the year by Helen Mountfield QC. The conference ended with a lively discussion on the future for rights discourse in the UK, introduced by Professor Vernon Bogdanor, CBE.

### Journalism

We have continued through the year to raise issues in the media about human rights. Roger Smith has written regularly monthly columns for both the *New Law Journal* and the *Law Society Gazette*.



# THIRD PARTY INTERVENTIONS



JUSTICE is one of the leading interveners before the higher courts in cases concerning the protection of fundamental rights. On issues ranging from the protection of the best interests of the child in extradition proceedings to the scope of habeas corpus jurisdiction and the determination of the limits of deportation to torture, our TPI programme remains an important complement to our core policy work. The pro bono assistance of counsel and law firms is essential to our continuing success in this area.

## Hearsay evidence and the right to a fair trial – *Al Khawaja and Tahery v United Kingdom*

In December 2011, the Grand Chamber of the European Court of Human Rights gave judgment in this key case on the compatibility of the hearsay provisions in the Criminal Justice Act 2003 with Article 6(3)(d) of the European Convention on Human Rights. JUSTICE argued that the UK Supreme Court's ruling in *R v Horncastle* [2010] UKSC 2 gave too little weight to the defendant's rights to confront witnesses and challenge their evidence (see Annual Review 2011). The Grand Chamber held that the provisions do not automatically violate Article 6 when they are used to admit unchallenged evidence which is the sole or decisive basis of the prosecution's case, but only if sufficient procedural safeguards are used to limit the unfairness to the defendant. So, whilst it found no violation in *Al Khawaja*, in *Tahery* it concluded that a judge's warning to the jury did not on its own prevent a breach of Article 6 in admitting the hearsay evidence, since such was not a strong enough safeguard.

## Secret Evidence and the right to a fair hearing – *SS v Secretary of State for the Home Department*

This Court of Appeal case concerned a Libyan national who had sought to resist deportation under the Refugee Convention but was denied its protection on the basis of secret evidence that purported to demonstrate he was involved in a terrorist organisation. JUSTICE was granted leave to submit written submissions and we argued that Article 47 of the EU Charter of Fundamental Rights provides wider protection than Article 6 ECHR, is binding when EU law is engaged, and requires sufficient disclosure for a person to understand the case against him or her. We urged the court to send the case to the Court of Justice of the European Union to link with *ZZ v Secretary of State for the Home Department* and *France v POMPI* for definitive guidance on the ambit of Article 47 and use of secret evidence. The court thought our intervention 'impressively argued', but ultimately sent the case back to the Special Immigration Appeals Commission (SIAC) as there appeared to be conflict between the open evidence before the court and judgment of SIAC in relation to its reliance upon closed material. Leave has been sought by



the appellant to the Supreme Court. JUSTICE was represented pro bono by Tom de la Mare QC, Tom Hickman and Baker & McKenzie.

### **Diplomatic assurances not to use torture – *Othman v United Kingdom***

In January 2012, the Grand Chamber gave judgment in *Othman v United Kingdom (Abu Qatada)*. JUSTICE intervened jointly with Amnesty International and Human Rights Watch in this high-profile case in which the court considered whether diplomatic assurances contained in a ‘memorandum of understanding’ (MoU) were sufficient to negate the real risk of the applicant’s torture or ill-treatment, contrary to Article 3 ECHR, in being deported to Jordan. The court rejected our argument that the real risk of torture could not be ameliorated by the diplomatic agreement, given that the use of torture in Jordan is, as the court accepted, ‘widespread and routine’. This seems difficult to reconcile with the Grand Chamber’s conclusion that deportation would breach Article 6 ECHR because of the real risk of the admission of evidence obtained by torture in any future Jordanian prosecution. We were represented pro bono by Lord Pannick QC, Helen Mountfield QC, Tom Hickman and Herbert Smith LLP.

### **Deportation to torture: diplomatic assurances and independent verification – *XX v Home Secretary (Ethiopia)***

In March 2012, JUSTICE intervened at the Court of Appeal to argue that SIAC had erred in its interpretation of existing law on deportation with assurances. This case was the first time the domestic court was asked to consider the implications of *Othman v UK*. JUSTICE submitted that effective verification must be an essential ingredient of any memorandum of understanding (MoU) capable of addressing any risk of torture, inhuman and degrading treatment in violation of Article 3 ECHR. JUSTICE argued that there is clear evidence that this MoU is incapable of any effective verification, as Ethiopia has worked proactively to limit the effectiveness of domestic and international civil society and there is evidence that torture in its places of detention is rife. In June 2012, the court rejected the appeal on the grounds the applicant did

not face a real risk of torture and was not required to determine the issue of effective verification. JUSTICE was represented pro bono by Eric Metcalfe and Herbert Smith LLP

### **The right to life and voluntary mental health admissions – *Rabone v Pennine Care NHS Trust***

In March 2012, the Supreme Court extended the protection under Article 2 ECHR (right to life) to voluntary patients in mental health care. JUSTICE was jointly granted leave to intervene by way of written and oral submissions with INQUEST, Liberty and Mind and argued that the positive obligations under Article 2 must apply both to those compulsorily detained and those for whom the state has assumed responsibility, even though such patients are not compelled to stay in hospital. The Supreme Court recognised that the difference in approach and treatment towards voluntary and detained patients is often one of form not substance and hospitals must take reasonable steps to safeguard the right to life of all psychiatric patients in their care where they know or ought to know there is an immediate risk to life. The judgment also held that parents of such patients can be victims for the purpose of bringing a Human Rights Act claim to vindicate their own losses. We placed much empirical information before the court which it considered in detail. The case extended obligations established under *Van Colle* (2008) and *Savage* (2008), cases in which we also jointly intervened. We were represented pro bono by Paul Bowen QC, Alison Pickup and Bindmans LLP.

### **Extradition and the best interests of the child – *HH & PH v Deputy Italian Prosecutor, Genoa***

Over four days in March 2012, the UK Supreme Court heard submissions in three extradition appeals concerning whether the Article 8 ECHR (right to family life) rights of dependent children of extraditees can give grounds to refuse extradition. These concern children who would be left without a parental carer should extradition be ordered. JUSTICE argued, by way of written and oral submissions, that the best interests of the child are not currently given sufficient weight and that, as a paramount consideration, they must be appropriately balanced



with extradition arrangements. We anticipate judgment imminently. We were represented pro bono by Alex Bailin QC, Mark Summers, Aaron Watkins and Peters & Peters LLP.

### **Use of closed proceedings and special advocates – *Tariq v United Kingdom***

In May 2012, JUSTICE was granted permission by the European Court of Human Rights to intervene in the cases of *Gulamhussein v UK* and *Tariq v UK*. This follows on from our interventions in *Deghayes v The Security Service* and *Tariq v Home Office* at the Supreme Court and *Al Rawi v The Security Service* at the Court of Appeal. In those cases, the domestic courts considered the use of closed proceedings and special advocates in civil claims for damages and the Employment Tribunal respectively. The European Court rejected the government's case in *Deghayes* but allowed it in *Tariq* (See Annual Review 2011). We are represented pro bono by John Howell QC and Eric Metcalfe.

### **Diplomatic assurances, habeas corpus and detention overseas – *Rahmatullah v Secretary of State for Foreign and Commonwealth Affairs***

In July 2012, the Supreme Court considered the government's appeal against the Court of Appeal decision to issue a writ of habeas corpus in relation to the detention of Yunus Rahmatullah, a Pakistani national detained by UK armed forces in Iraq and then transferred to US custody. The Court of Appeal concluded that, in light of the factual background, including the existence of diplomatic assurances on the treatment of transferred detainees, habeas corpus jurisdiction was available in order to better determine the degree of control that the UK retained over Mr Rahmatullah. JUSTICE is represented by Tom de la Mare QC, Fraser Campbell and Allen & Overy

### **Future interventions**

As always, we are actively seeking suitable cases in which we may usefully intervene to assist in the development of the law protecting fundamental rights and principles of justice. We welcome the assistance of our members in identifying suitable cases.



# CRIMINAL JUSTICE



**Lobbying on the sentencing provisions of the Legal Aid, Sentencing and Punishment of Offenders Bill has been the major activity of the year. Following the departure of Sally Ireland, Director of Criminal Justice Policy, we have, at least temporarily, combined responsibilities for domestic and European Union criminal justice policy.**

## **Legal Aid, Sentencing and Punishment of Offenders Bill**

A great deal of work was put into briefing on each stage of this bill and to giving written and oral evidence to the bill committee. While the majority focus was, of course, on the legal aid cuts, we were concerned about proposals in Part 3 of the bill relating to sentencing amendments and the introduction of new offences. These involved: the extension of curfew provisions, both in length of hours per day and overall duration; the provision to enable transit of prisoners through the UK without any scrutiny of the circumstances of transfer (given the worrying evidence which suggests UK complicity in rendition which transpired to be to torture); and new knife crime offences with presumptive minimum sentences for children as well as adults. We welcomed the provisions for increasing use of cautioning and reprimand for children which would divert them from the criminal justice system.

We also welcomed the abolition of indeterminate sentences for public protection (IPP) which have swelled the prison population with people long past their indicated tariff and with no hope of demonstrating that they are no longer dangerous. However, through a complex set of provisions, IPPs have been replaced with mandatory life sentences. Whilst the judge must be satisfied as to serious offending and lack of mitigating features in order to impose the sentence, we do not believe that another determinate sentence is necessary to deal with serious offences. In our briefing, we argued that focus must be placed on addressing offending

behaviour through appropriate programmes and proper support for return to the community, which are not the focus of these provisions. Current IPP prisoners remain in limbo due to the bill's lack of clarity concerning their release. Amendments to the Rehabilitation of Offenders Act were introduced to the bill at a late stage, reducing the time until a conviction becomes spent. These will offer those attempting to rebuild their lives following a conviction a greater opportunity to succeed. However, we were concerned by the exception made for immigration cases. Despite lengthy and heated debate over many of these provisions, they all made their way into the Act, which gained Royal Assent on 1 May 2012. It remains to be seen how judges and other authorities exercise the powers conferred by the Act.

## **Other bills**

We continued to work on other bills, maintaining our concerns through the Parliamentary stages that we set out in last year's review. In particular, for the House of Lords committee stage of Police Reform and Social Responsibility Bill, we issued a joint briefing with the Aegis Trust, Human Rights Watch and Redress on changes to the arrest warrant procedure for crimes of universal jurisdiction. We also responded to the Ministry of Justice consultation *Reforming the public bodies of the Ministry of Justice* where we argued that the Chief Coroner should remain independent of the Lord Chief Justice and Lord Chancellor and that a multi-disciplinary youth justice body with decision making powers is required within central government should the



Youth Justice Board be abolished. We continued to oppose the Public Bodies Bill and its wide 'Henry VIII' clauses, including the proposed abolition of the Equality and Human Rights Commission and Office of the Chief Coroner. Upon enactment, the Chief Coroner and EHRC survived (though its funding arrangements are to be modified).

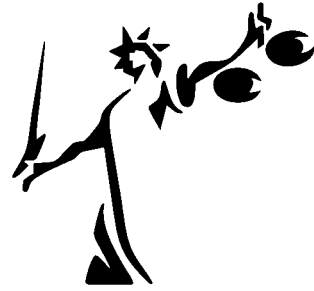
### Other work

We maintained our positions as a member of the Criminal Justice Alliance and Standing Committee for Youth Justice, which Sally Ireland chaired until she left, as well as the War Crimes Community Involvement Panel. Our application to Esmée Fairbairn Foundation, made jointly with The Police Foundation, for a grant to form an Independent Commission on Policing, was turned down by the trustees in September 2011. We then learnt that the Labour Party is to set up a similar commission. We organised and held the Policing and Prosecution conference in November 2011. We met, jointly with Liberty, with the CPS to advise on its guidance to Crown Prosecutors concerning prosecutions arising out of protest. We organised an expert seminar for Conservative MPs and peers as part of series of meetings for politicians of all three major parties on criminal justice issues.

We continued our work on public order, including responding to the government's consultation on policing and public order, produced following the riots in summer 2011. This consultation included proposals on a range of reforms, including restrictions on the wearing of face coverings and the use of curfew powers. It also consulted on the reform of s5 of the Public Order Act 1986 to prevent the criminalisation of words or behaviour that is merely 'insulting'. JUSTICE briefed Parliamentarians on amendments to the Protection of Freedoms Bill to implement this reform and we continue to encourage the government to publish the outcome of its consultation and legislate on this issue without delay.



# ACCESS TO JUSTICE



Work on access to justice has included:

- **Briefing on the Legal Aid, Sentencing and Punishment of Offenders Bill**
- **Contribution to the International Legal Aid Group**
- **Research into the use of telephone ‘hotlines’ and websites to give legal advice**
- **Research into the operation of the right to legal aid as part of our European ‘Suspects’ Rights in Police Detention’ project**

## The Legal Aid, Sentencing and Punishment of Offenders Bill

LASPO was one of the most disappointing bills of modern times, particularly for those engaged in legal aid. Effectively, it tore up the legal aid scheme as it had developed since 1949 and, in particular, rowed back on legislation passed in 1972 under a Conservative government which extended the scheme to cover legal advice on any matter of English law. Face-to-face advice in many areas of ‘welfare law’ is to be replaced by telephone hotlines and website information. The Legal Services Commission is to be abolished and decision making to be taken in-house by the Ministry of Justice. All these reforms emanated not from any deep hatred of legal aid but from the consequence of the overall decision to cut spending by just under a quarter.

JUSTICE joined the coalition of organisations, largely organised by the Law Society, which opposed the drastic nature of the cuts. This effort was, perhaps predictably, largely futile and the original proposals for cuts in the bill went ahead unamended despite opposition in both Houses of Parliament, particularly the Lords. We were able to obtain some movement from the government on two particular issues on which we lobbied individually. Some measure of protection for the independence of the newly created post of Director of Legal Aid Casework was eventually inserted in the text. We lobbied for

a very specific amendment in relation to eligibility on which we were eventually successful. This was to preserve legal aid in cases before the Court of Appeal and above for social security appeals.

## The International Legal Aid Group

JUSTICE has continued to assist in the work of the International Legal Aid Group. This is an informal association of legal aid administrators and researchers that meets every other year and, in the meantime, keeps in touch through a newsletter and website ([www.ilagnet.org](http://www.ilagnet.org)). These include summaries of developments around the world, culled from various news sources and supplemented by longer articles. Legal aid reform and cuts have been the themes of the year, with the domestic abolition of the Legal Services Commission foreshadowed by developments in New Zealand where exactly the same proposal was made to remove the commission’s equivalent. New Zealand did, however, incorporate an independent appeal process missing in LASPO.

## Legal Advice via telephone and the internet

The research project into telephone hotlines and website sources of information follows the LASPO provisions which replace face-to-face legal advice in a number of areas with such assistance. Our paper ‘The internet and the provision of advice’ was published in the ILAG newsletter and in the



*JUSTICE Journal*. The article sparked a considerable degree of interest, finding its way into blogs both in this country and the United States. The burden of its argument was that there was, rather surprisingly, very little evidence of imaginative use of the internet in this country or elsewhere to give legal advice and information. The interactive capacities of modern technology were rarely used. The project will explore why this might be, the extent to which issues like the 'technological divide' provide an insuperable limit to those who might take advantage of the internet, and whether there are any examples of good practice that could be followed.

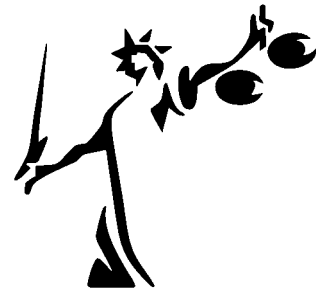
### **Access to justice for criminal suspects in Europe**

Our contribution to the 'Suspects' Rights in Police Detention' (SRPD) project is described further in the EU section. However, it may be worth stressing its relevance to access to justice. We are responsible for some major research in relation to Scotland which involves an empirically-based project – co-ordinated with similar efforts in England and Wales, France and the Netherlands – to establish what assistance suspects in detention actually receive. In the context of Scotland, provision has been extended as a result of the *Cadder* decision in which we were an intervener. We are, therefore, involved at a number of different levels in this issue since it is also one with which the new Scottish branch is concerned. Methodologically, it is interesting that an organisation like ourselves can take on the role of equal partner with universities in a serious academic project. The SRPD research very much follows on from the successful 'Effective Defence Rights in Europe' (EDR) project completed last year. In both of these, we have worked very closely not only with academics from the Universities of the West of England and Maastricht (and Warwick in relation to SRPD) but also the Open Society Justice Initiative (OSJI) based in Budapest. We contributed to the launch conference of the OSJI's own project, 'Effective Criminal Defence Rights in Eastern Europe', in which the EDR methodology was replicated in five countries in Eastern Europe.





# THE EUROPEAN UNION: JUSTICE



**Changes to the structure of the EU institutions and an increasing work programme in the area have led to a division in the Commission between Justice and Home Affairs. We have followed this lead and focussed our attention on justice policy. Our particular focus has continued to be on procedural safeguards for suspects in criminal proceedings, though we have also kept a watch on the emergence of the EU Charter of Fundamental Rights and other issues of concern within the Stockholm Programme. We are engaged in two major research projects funded by the European Commission.**

## **Procedural safeguards**

As we reported last year, the 'roadmap' adopted under the Swedish Presidency of the EU continues to progress. Measure B, concerning the right to information in criminal proceedings, has now been adopted and member states will have two years to implement them through domestic legislation. The instrument requires a letter of rights to be made available to all suspects detained by the police, including those under a European arrest warrant, in a language that they understand, that sets out what their rights in detention are. Notification of key rights must also be given orally. Suspects must be told the reason for their arrest, including the offence of which they are accused. They must, in addition, be provided with detailed information about the offence and their participation in the process at the latest by the time of submission of the case to court. Access must be made available to those materials in the case that are essential to challenge arrest and detention and to material evidence which is necessary to safeguard the fairness of the proceedings and to prepare the defence. We produced briefings and suggested amendments throughout the Council and Parliamentary stages in the EU.

A proposal for a directive concerning Measure C on the roadmap was presented during June 2011. This measure is to ensure access to a lawyer and consular assistance. From the outset it has had a rough ride. The UK and Ireland decided not to opt in to the measure in September, despite our efforts to convince Parliamentarians in the UK through briefings and press releases that this was the most important instrument for safeguarding procedural rights. Unfortunately, the UK assessment of the instrument was that it would be detrimental to our investigatory process. However, the UK deemed it appropriate to sign a joint statement with Ireland, France, the Netherlands and Belgium criticising the proposal for a much wider range of encroachments upon national sovereignty. We issued a joint response with NGOs to this remarkable public criticism. In any event, the UK has remained heavily engaged in the debate and a general approach in Council was agreed at the beginning of June 2012, which the UK would in principle be able to agree to upon adoption. However, the European Parliament is now taking its turn to consider the proposal. We have drafted a joint statement with similar NGOs on the general approach to inform MEPs, Council and Commission



representatives of our outstanding concerns with the compromise: minor offences are exempted from pre-trial advice despite a court procedure being envisaged; derogations from confidentiality without judicial oversight and exclusion of evidence are possible; legal representation is only required during 'official interviews' during pre-trial proceedings; and remedies for breach must simply be made available in accordance with national law. We have briefed UK MEPs as to which amendments laid before the European Parliament should be supported or rejected. We will continue to monitor the progress of the directive as it progresses through the Parliament and the negotiations with the Council of Ministers and Commission (the so-called trilogue). We hope that a finalised directive will be adopted by the end of the year, but there is much to be done to strengthen the current version.

Impact assessments are currently being prepared by the Commission on the legal aid portion of Measure C and vulnerable suspects in Measure E. We have provided evidence to the research studies which will inform these assessments and attended an experts' meeting conducted by the Commission on vulnerable suspects. The Commission also issued a consultation on length and conditions in pre-trial detention to which we submitted evidence jointly with the International Commission of Jurists. The deadline was November 2011 but the Commission is still compiling the results of the consultation process and considering the approach it should take.

### **Victims' rights**

The Commission is working on a programme of measures for victims of crime. We have attended experts' meetings held by the Commission and the Fundamental Rights Agency. The latter is conducting relevant research into support services for victims of domestic violence. Along with the Criminal Bar Association, we produced a briefing on the Commission's proposal for a directive establishing minimum standards on the rights, support and protection of victims. The measure is currently in discussion between the European Parliament, Council of Ministers and Commission.

### **EU Charter of Fundamental Rights**

The UK secured a protocol to the Lisbon Treaty regarding the application of the EU Charter in the UK. This has led to much uncertainty regarding the use of the instrument domestically. However, the European Court of Justice gave judgment in December 2011 in a case (*NS*) against the UK which confirmed that the protocol simply reasserts that the Charter is only applicable in cases where the EU has exerted competence rather than limits the binding effect of the Charter. There are some outstanding questions regarding solidarity rights which remain to be litigated, but this is good news for invoking Charter rights and principles in domestic cases. We have relied upon the Charter in two interventions (see TPIs section) this year. We held a conference, jointly with the Bar European Group, to introduce the Charter to UK practitioners and were delighted that Lord Justice Laws was able to chair the event, with speakers Aidan O'Neill QC, Tom de la Mare QC, Alison Pickup and Jodie Blackstock of JUSTICE. We hope to repeat the event in the autumn in the north and Scotland. We are also updating our EU Charter website ([www.eucharter.org.uk](http://www.eucharter.org.uk)) as new cases are decided.

### **Best evidence in European arrest warrant cases**

Our two year project on achieving best evidence in European arrest warrant (EAW) cases will conclude in September this year. The project has been extended to cover ten EU member states: UK (England and Scotland), Ireland, Germany, Denmark, Sweden, Poland, Portugal, Italy, Greece and the Netherlands. We have been collecting information from defence lawyers on their cases by way of questionnaire and are meeting with lawyers and representatives of the justice ministries in each member state. Our findings have led us to develop a lawyer recommendation form which we have circulated to practitioners in order to create a peer review database that lawyers can access in order to obtain support from an issuing state criminal lawyer. We will also be making recommendations for training lawyers in the EAW procedure and the development of accreditation. We hope that this will contribute to reform of the procedure even if the law itself cannot be amended.



## Defending suspects' rights in Europe

In June 2011, we started a second project, 'Suspects' Rights in Police Detention', which will also run for two years. This is a joint project with the universities of Maastricht, the West of England and Warwick, the Open Society Justice Initiative and Avon and Somerset Police. The project is conducting observational research of police detention in England, Scotland, France and the Netherlands. We are collecting information about the approach of police and lawyers in giving effect to procedural rights that apply during police custody, such as the right to notification of rights and access to a lawyer. From the results we will produce a report with recommendations for best practice and training materials designed for police and lawyers that can be utilised across the EU. We have been supervising the research in Scotland, liaising with police and lawyers in two locations. Once the research is completed, we will contribute to the final report and draft the training materials.



# SCOTLAND



The highlight of the year came in July 2012, when we launched our new branch, JUSTICE Scotland, in Edinburgh. This marked the culmination of a busy year for us and our Scottish Advisory Group. Following our influential work in the seminal case of *Cadder*, we have:

- provided training and support to Scottish defence lawyers
- responded to Lord Carloway's review of criminal law and practice in Scotland
- been involved in the debate on the role of the UK Supreme Court in Scottish criminal cases

## Scottish Advisory Group

We have been increasingly building our presence and work on Scottish issues arising out of our successful third party intervention in 2010 in the case of *Cadder v HM Advocate*. This resulted in emergency legislation bringing in the right of access to a lawyer in the police station, something which was absent from legislation, and therefore practice, until October 2010.

We have been assisted in our work by our Scottish Advisory Group, which grew to comprise approximately 15 lawyers and concerned members of society. It became apparent, not least from a review of criminal justice undertaken by Lord Carloway, that there are wider problems with the justice system as a whole and that a human rights dialogue is missing or given a very small voice in the reform debate.

## Launch of JUSTICE Scotland

We have worked towards forming a JUSTICE Scotland branch and are delighted that this launched on 13 July 2012 at the Signet Library in Edinburgh, with a keynote speech from Lord Hope, deputy president of the Supreme Court and Lord President of the Court

of Session in Scotland. We held the inaugural AGM in Edinburgh, attended by our Scots members, in April 2012. This elected postholders for the Scottish Executive Committee in accordance with the new constitution agreed for the Scottish branch. Our registration with the Scottish Charity Commission is pending. We are seeking funding to support the growth of the branch.

## Supporting Scottish defence lawyers

As many who recall the changes in England following the introduction of the Police and Criminal Evidence Act 1984 will be aware, it is not easy to introduce an entirely new area of legislation without problems. In Scotland, emergency legislation did not provide requisite remuneration or resources for defence lawyers. Neither did it mandate appropriate training. JUSTICE has sought to assist in bridging this gap. In July 2011, we held, jointly with the University of Warwick and Professor Jackie Hodgson, an evening seminar in Edinburgh which attracted a attendance of around sixty. In January 2012, with the support of members of the Advisory Group, we provided training at each of the six Law Society Scottish roadshows.



A number of cases were taken to the Supreme Court on references from the Lord Advocate following *Cadder* and devolution minutes (pre-trial issues relating to human rights) have been raised against the procedure that has been employed to give effect to the right of access. We have provided advice and comparative jurisprudence to support the efforts of the defence lawyers taking these cases.

### The Carloway Review

Lord Carloway undertook a review on the position, to which we submitted evidence. His report was published in November 2011. It contained some welcome recommendations for improving police detention, whose implementation we will support. However, there are some worrying recommendations for revision of the trial stage, including removal of long standing evidential principles, without any suggested replacements to safeguard the fairness of the trial. We published an initial response and are working on detailed comparative evidence to feed into the legislative process for reform which we anticipate will begin this autumn. We hosted lawyers and NGOs from four jurisdictions (England and Wales, Northern Ireland, Scotland and Republic of Ireland) in the Faculty of Advocates in Edinburgh to discuss strategic litigation around the right of access to a lawyer.

### The role of the UK Supreme Court in Scotland

As a result of the *Cadder* case and a subsequent miscarriage of justice case, *Fraser*, the Scottish Government instigated reviews of the role of the Supreme Court in Scots criminal cases conducted by Sir David Edward on appointment from the Advocate General. Apparently dissatisfied with Sir David's conclusions (which essentially advised maintenance of current powers and jurisdiction, but removed human rights complaints from the system of raising devolution issues since they are, in fact, quite separate), the government commissioned a second review to be conducted by Lord McCluskey. Whilst Lord McCluskey agreed that the Supreme Court should be kept to ensure uniform conformity of the UK with its international obligations, he recommended a number of changes to limit its powers and jurisdiction. The Advocate General inserted amendments to the Scotland Bill to give

effect to his review, with opposing amendments then inserted by Lord McCluskey. JUSTICE provided written evidence to both the Holyrood and Lords Westminster bill committees and at each stage of the bill through Westminster, advising that Sir David Edwards' recommendations should be followed and that there was no need to limit the jurisdiction of the court, for the sake of two very important cases that, in fact, upheld the rule of law. Our submissions were relied on in the debates. The final Act makes some concessions to Lord McCluskey, but not in the areas that most concern us. There remains the worrying requirement to carry out a review of the new procedure with the option of laying amendments that can be approved by the Scottish Parliament without debate in Westminster. The constitutional validity of this amendment, which crept in at the last minute, is questionable and we will watch its application closely.

These are interesting and exciting times for our new Scottish branch and we hope to report on a varied programme activity in next year's review.



# THE INTERNATIONAL COMMISSION OF JURISTS



**We continued to play a role within the ICJ, working with its staff on matters such as the Brighton Declaration on the European Court of Human Rights. We also published two newsletters which summarised the work of the ICJ itself and its European sections.**

JUSTICE is the British section of the International Commission of Jurists. This is an independent Geneva-based group of about sixty leading lawyers from around the world. Its president is Professor Pedro Nikken from Venezuela, its vice-president Australian judge John Dowd and the UK commissioner is Professor Sir Nigel Rodley of Essex University. The ICJ was hit hard by the tragic death in office of its secretary general Nick Howen, but he has been ably replaced by his one-time deputy, Wilder Tayler.

The ICJ is committed to respect for international human rights through the rule of law. It organises its activities by regional and thematic programmes. Thematic concerns have included criminal justice and fair trial. In pursuit of this, the ICJ has sent observers to a number of trials, particularly in Russia. These have involved a number of cases which have involved proceedings concerning lawyers. This has led the ICJ to working with JUSTICE on the European Commission's proposed directive on access to a lawyer. The ICJ worked with JUSTICE again in relation to the reform of the European Court of Human Rights, having attended the Izmir conference in 2011 and that in Brighton in 2012.

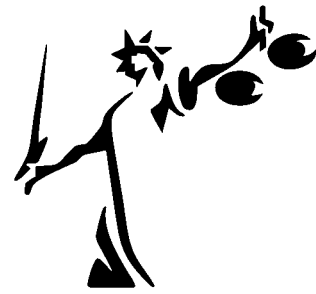
The ICJ has continued its work within the UN in relation to legal aid. Its strenuous lobbying of the UN Commission for Crime Prevention and Criminal Justice was successful – in April 2012, the commission adopted the UN's 'Principles and

Guidelines on Access to Legal Aid in Criminal Justice Systems'. The guidelines are likely to be adopted by the UN General Assembly and will be the first such UN document on a right to legal aid. As a matter of policy, the ICJ has been building up its regional offices. There are now offices in Johannesburg, Kathmandu and Bangkok, with regional programmes covering Central America and Europe, employing more staff than HQ in Geneva

JUSTICE's projects for the European Commission has facilitated our bringing together the European sections of the ICJ and improving communication among them – a major intention of the two pilot issues of the newsletter which we sent out in 2011 and 2012. The sections are very variable. JUSTICE is the only one which exists as an entirely autonomous organisation without any overt connection with the ICJ. Active branches exist in a range of European countries including Austria, Germany, Norway, Switzerland and Denmark.



# JUSTICE STUDENT HUMAN RIGHTS NETWORK



**The network continued to provide an important channel through which JUSTICE communicates with the next generation of lawyers.**

The importance of the student network was recognised in the design of our new website. It has its own easily differentiated area of the site and its distinctive green colour. This has allowed us to give more obvious publicity to our intern programme which continues to be extremely popular. A number of increasingly eminent young lawyers have spent time with us and the interns have given us an enormous amount in their energy, commitment and enthusiasm. This year, rather unusually, we have taken two trainees as part of their training contract. Jemma Sherwood-Roberts (née Hamlin) and Yasmin Husain gave us considerable assistance: it was a pleasure to assist them in their qualification while at the same time gaining such benefit from them.

We continued to publish the student e-newsletter three times a year. It is distributed both directly to a large number of individuals and to academic institutions which forward it to students on our behalf.

We held two major events in the year. In November 2011, the College of Law generously hosted an evening entitled 'Baroness Hale in Conversation'. This was a new format for us, in which a major figure allows herself to be questioned in an informal way about her life, career and opinions. Lady Hale was the ideal guest. She revealed exactly the combination of charm, knowledge and the odd flash of steel that you would expect. As a former academic, she was completely at ease with a student audience. The conversation covered a wide range of topics but a persistent theme was the value of education (her parents were teachers and she went

to a small, girls-only grammar school followed by a women-only college), the importance of women in the law and the state of the current human rights case-law. The informal approach of this type of event worked so well that we later used it in a discussion with the Secretary of State for Justice, Ken Clarke. The other innovation in this event was that we chose, with some initial trepidation, a weekday evening rather than the usual Saturday. This worked better than we expected and some students had made considerable efforts to attend – notably a group that had come up from Southampton for the evening.

The second event, in March 2012, was our now established annual conference, held on a Saturday. The theme was 'Human rights: struggling to be heard'. We used it both to raise issues about the current debates on human rights as well as to look at the way that our staff address different issues. We welcomed back Eric Metcalfe to talk about human rights and the courts, Angela Patrick covered human rights and Parliament, and we examined issues of particular concern to JUSTICE, including how myths hostile to human rights might be countered.



# ORGANISATION AND FINANCE



## The JUSTICE Tom Sargant memorial annual lecture 2011

JUSTICE welcomed the Parliamentary Ombudsman, Ann Abraham, to give its annual lecture 'The Parliamentary Ombudsman and Administrative Justice' on Thursday 13 October.

It was 50 years ago – in October 1961 – that JUSTICE published a report by Sir John Whyatt QC entitled *The Citizen and Administration: The redress of grievances*. Although it took until 1964 before its recommendation of a UK Parliamentary Ombudsman was implemented, it was the Whyatt Report that should be credited with introducing not just the Parliamentary Ombudsman but also the ombudsman institution itself.

Ann Abraham reasserted the importance of the Parliamentary Ombudsman – as a democratic institution and as an agent of social justice and fairness. She concluded that

*... if we are to continue the task of humanising the bureaucracy, of maintaining public relationships that bear the stamp of democratic values, and of protecting the entitlement of ordinary citizens to dignity and respect, we should acknowledge the insight of 'Whyatt' and remain protective of its legacy ...*

The lecture was published in the *JUSTICE Journal* (Volume 8 Number 2) and is available to download from the JUSTICE website.

JUSTICE is very grateful to Freshfields Bruckhaus Deringer for hosting the lecture.

## Council

Council met twice in the year, on Thursday 20 January 2011 and Thursday 23 June 2011. Its deliberations focused on JUSTICE's ongoing policy work on legal aid and the Press Complaints Commission.

## Laurence Shurman

We were greatly saddened by the news of Laurence's death on 27 July 2012. Laurence was a member for fifty years, joined Council in 1996 and served on the Executive Board from 2003. He will be sorely missed.

## Staff

Congratulations to Liz Pepler, Director of Finance and Administration, on the birth of Rosa, and thanks to Liz's maternity cover, Nelinda Mericle.

This year we said a fond farewell to Sally Ireland, Director of Criminal Justice Policy and Eric Metcalfe, Director of Human Rights Policy and hello to Angela Patrick as Eric's successor. Our criminal justice policy work will be covered by Jodie Blackstock.

We continue to work closely with a number of interns – Lena Donner, Vasileios Fragkos, Laura Giles, Clare Hayes, Kate Helliwell, Henrietta Jackson-Stops, Samantha Jones, Gavin McLeod, Elizabeth Muldown, Carolina Rudnick, Rachel Shepherd and Emily Smith. Jemma Sherwood-Roberts (née Hamlin) joined us on secondment from Corker Binning Solicitors, and Yasmin Husain on secondment from Matthew Gold & Co Solicitors.

## Annual General Meeting

The 2011 Annual Subscribers' and Annual General Meetings took place at Freshfields Bruckhaus Deringer on Thursday 13 October and were chaired by JUSTICE's Treasurer, Nicholas Aleksander. The meetings voted to adopt the annual report and the annual accounts, and re-appointed Sayer Vincent as auditors.

## Election of Council members

We welcome the continued support of the following 14 members who were due to retire from Council and who were re-elected: Marcel Berlins, Peter Binning, Anand Doobay, Professor Richard de





Friend, Stephen Grosz QC, Professor Robert Hazell CBE QC, Suzanne Lambert, Lord Lester of Herne Hill QC, Alexandra Marks, Shaheen Rahman, Laurence Shurman, Jessica Simor, Michael Smyth CBE and Jemima Stratford QC.

Two members, Professor Dawn Oliver and David Ormerod, retired. JUSTICE thanks them for their contribution to the governance and stewardship of the organisation.

JUSTICE is pleased to welcome back Vera Baird QC as an elected member of Council. She had stepped down in 2007 when she became Solicitor General.

Simon Hughes MP, retired as a co-opted member and we thank him for his valuable contribution. Nine co-opted members were re-appointed: Lord Brennan QC, Richard Clayton QC, Dr Pavlos Eleftheriadis, Lord Grabiner QC, Courtenay Griffiths QC, Jessica Lee MP, Baroness Sarah Ludford MEP, John Scott QC and Emily Thornberry MP. Richard Thomas CBE was co-opted for the first time.

## Election of Executive Board members

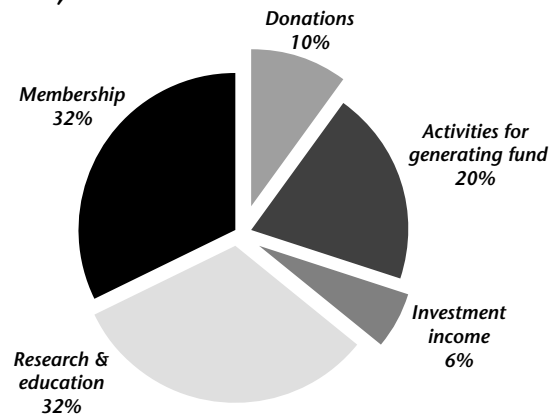
We welcome the re-election of seven members of the Executive Board who were due to retire by rotation: Stephen Grosz QC, Suzanne Lambert, Alexandra Marks, Walter Merricks CBE, Laurence Shurman, Jessica Simor and Jemima Stratford QC.

## Finance

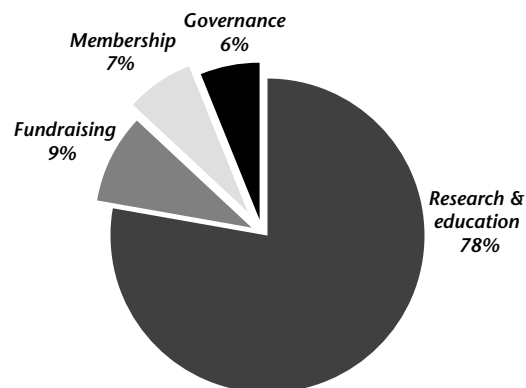
JUSTICE has had a challenging year financially. 2011/12 saw our operating deficit rise to £136,848, from a figure of £59,640 the previous year. A large fall in income coupled with a small decrease in expenditure underlies this deficit. This is largely due to the organisation being unsuccessful in its application for a European Commission operating grant but opting to continue the EU policy work, funding this from unrestricted reserves.

JUSTICE owns its offices at 59 Carter Lane and some listed investments which are held as part of an expendable endowment fund. We also held £113,009 in cash and short term deposits at the year end – the cash balances being equivalent to three months' operating costs. We have sufficient

### JUSTICE's incoming resources in 2011/12 £265,255



### JUSTICE's resources expended in 2011/12 £402,103



resources to settle our liabilities as they fall due in the foreseeable future. It is worth noting that the current level of operational deficits will require the sale of investments in the near future.

In an attempt to make JUSTICE more sustainable we have adopted a more formal approach to fundraising. The Fundraising Committee has prioritised income-generation via the 'Friends of JUSTICE' scheme and through an annual appeal. We have also introduced an annual fundraising event. Early signs of this new approach are encouraging.

JUSTICE continues to enjoy the support of a number of trusts and foundations. In particular, we would like to thank the European Commission, the Sigrid Rausing Trust, the Nuffield Foundation and the



Joseph Rowntree Charitable Trust for funding which has allowed us to expand our work into areas that would not be possible were external funding not available. We are also grateful for the loyalty and generosity of our members and other supporters who have responded generously to our annual appeal and invitations to become Friends and attend events.

## Reserves

JUSTICE operates in a policy environment that requires long-term commitment if it is to achieve its mission. Being a research and educational organisation, it is the work undertaken by JUSTICE's staff – work that accounts for 80% of its expenditure – that forms JUSTICE's charitable activities. Therefore, the Executive Board's view is that JUSTICE needs a level of reserves that will enable it to continue to attract the highest level of legal expertise and, in so doing, meet its long-term commitments to its supporters and beneficiaries.

JUSTICE is fortunate in that the majority of its income is unrestricted – allowing us to set an independent and flexible research agenda. On the other hand, the majority of that funding is short-term and is renewed annually. Therefore, the Executive Board considers that reserves equivalent to at least nine months' running costs are needed. On 31 March 2012 JUSTICE had £369,130 in general reserves (comprising unrestricted and endowment funds that are not fixed assets) which is slightly higher than the trustees' reserves policy. JUSTICE's reserves funds are held in a mix of deposit accounts, fixed term deposits and fixed interest and equity-based common investment funds with the aim of achieving a combination of income and capital growth. Unlike last year, when JUSTICE's investments gained in value, this year closed with only a modest unrealised gain of just over £300. Fortunately, JUSTICE has not had to consider drawing down any funds from its long-term investments, though it is possible that some withdrawals will be needed in the coming year.

JUSTICE's Executive Board will continue to review its reserves policy annually, and will keep its investment and treasury management policy under

regular review, particularly in the light of reduced deposit interest rates.

Nicholas Aleksander

Treasurer, Chair of the Finance Committee  
On behalf of the Executive Board

## Membership and fundraising

As reported, the Fundraising Committee has focused on increasing regular giving through the 'Friends of JUSTICE' scheme. Steady progress is being made here, with the number of Friends now standing at 47 (compared to seven when the promotional campaign began). An inaugural Friends' event is planned for early in 2013.

The Fundraising Committee is also looking at ways of increasing legacy income, and we were fortunate to receive a bequest of £10,000 from a former member in the early summer (this income will appear in the 2012/3 accounts reported on next year)

In May 2012, we held a fundraising screening of the film *Judgment at Nuremberg* at the ICA in London, followed by a discussion of the issues it raised. We are particularly grateful to the Caron Trust, which offered, as an incentive, to double the funds raised at the event.

The news on membership is mixed. We have seen a 4% fall in overall numbers of members, but membership income has risen by 8% – due partly to an increase in fees in October 2011.

## Membership figures

Judges	44
Barristers	437
Solicitors	155
Retired or non-practising lawyers	216
Students, Trainees and Pupils	201
Associates	80
Legal Corporates	44
Libraries	25
Associate Corporates	7
<b>TOTAL</b>	<b>1209</b>

(figures for July 2012)



## Major publications and events

### Publications

- **EU Criminal Procedure: A general defence practitioner's guide**  
Introduces the EU in a simple and accessible way so that busy practitioners can get to grips with what they need to know quickly. It summarises the relevant legislation and issues arising, providing essential materials in the annex.  
July 2011 • A5 • 233pp • ISBN 978 0 907247 52 4  
Published with the support of the European Commission  
Available free from the JUSTICE office, or as a PDF download from the JUSTICE website
- **Freedom from Suspicion: Surveillance reform for the digital age**  
In 2000, Parliament enacted the Regulation of Investigatory Powers Act (RIPA). At the time, it was acclaimed by ministers as human rights compliant, forward-looking legislation. Since its inception, there have been close to three million decisions taken by public bodies under RIPA.  
Whereas some surveillance is necessary in the fight against serious crime, unnecessary and excessive surveillance destroys our privacy and blights our freedoms.  
RIPA is neither human rights compliant nor forward-looking. It has failed to stem excessive surveillance by public bodies and, in many cases, has inadvertently encouraged it. Piecemeal amendments are no longer enough for what is already a piecemeal Act. Root-and-branch reform of the law on surveillance is needed to provide freedom from unreasonable suspicion and put in place effective safeguards against the abuse of what are necessary powers.  
*Freedom from Suspicion* outlines a series of recommendations to serve as the basis for a draft Surveillance Reform Bill, covering:
 
  - surveillance and the right to privacy
  - interception of communications
  - communications data
  - 'intrusive' surveillance
  - 'directed' surveillance
  - covert human intelligence sources
  - encryption keys
  - the Investigatory Powers Tribunal
 November 2011 • A4 • 162pp • ISBN 978 0 907247 53 1  
Published with the support of the Joseph Rowntree Charitable Trust  
£10 (£9 to JUSTICE members) Also available as free PDF download from the JUSTICE website
- **JUSTICE Journal**  
A six-monthly publication, promoting debate on topical issues relating to human rights and the rule of law.  
Annual subscription £60 (£54 to JUSTICE members)  
ISSN 1743-2472
- **JUSTICE Bulletin**  
Thrice-yearly members' newsletter. ISSN 1467-4890

### Events

- **Police Station Advice: Promoting best practice**  
Hosted by Faculty of Advocates, Edinburgh. Organised with Warwick University. Wednesday 27 July 2011
- **Human rights: What role for the EU?**  
JUSTICE fringe meeting at Liberal Democrats party conference, Birmingham. Organised with the Liberal Democrat Lawyers Association. Monday 19 September 2011
- **The Press, Privacy and the Practical Values of the Human Rights Act**  
JUSTICE fringe meeting at Labour party conference, Liverpool. Organised with the Society of Labour Lawyers. Monday 26 September 2011
- **The Human Rights Act: Too hot, too cold or just right?**  
JUSTICE fringe meeting at Conservative party conference, Manchester. Organised with the Society of Conservative Lawyers. Tuesday 4 October 2011
- **The Parliamentary Ombudsman and Administrative Justice: Shaping the next fifty years**  
Ann Abraham, Parliamentary Ombudsman. JUSTICE Tom Sargent memorial annual lecture, hosted by Freshfields Bruckhaus Deringer, Thursday 13 October 2011
- **Annual Human Rights Law Conference**  
Organised with Sweet & Maxwell, Wednesday 19 October 2011
- **A Justice of the Supreme Court in Conversation**  
Baroness Hale of Richmond with Roger Smith. A JUSTICE Student Human Rights Network event, hosted by the College of Law, Wednesday 16 November 2011
- **Press Regulation: A JUSTICE roundtable**  
Hosted by Withers LLP, Thursday 17 November 2011
- **Policing and Prosecution Conference: The changing landscape**  
Organised with Sweet & Maxwell, Tuesday 29 November 2011
- **Is it time to rip up RIPA? An open discussion on the future of surveillance and the right to privacy in the UK**  
Hosted by Julian Huppert MP, Monday 6 February 2012.
- **Secret Evidence, Justice Denied? The Justice and Security Green Paper**  
Organised with INQUEST, Liberty and Reprieve, Monday 12 March 2012
- **Human Rights: Struggling to be heard**  
JUSTICE Student Human Rights Network conference, hosted by the College of Law, Saturday 24 March 2012
- **The EU Charter of Fundamental Rights: An essential tool for UK practitioners**  
Organised with the Bar European Group, Thursday 29 March 2012
- **Equality Conference 2012**  
Organised with Sweet & Maxwell, Tuesday 26 June 2012
- **Ken Clarke in Conversation with Roger Smith**  
Hosted by Freshfields Bruckhaus Deringer, Tuesday 10 July 2012
- **Launch of JUSTICE Scotland**  
Signet Library, Edinburgh, Friday 13 July 2012



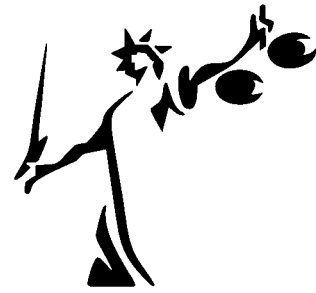
## BRIEFINGS AND PAPERS August 2011 – July 2012

The majority of these are available on our website at [www.justice.org.uk](http://www.justice.org.uk)

- Response to Parliamentary Ombudsman consultation, August 2011
- Response to the McCluskey review on the Supreme Court, August 2011
- Response to Ministry of Justice consultation on the Public Bodies Bill, September 2011
- Briefing on Public Bodies Bill for House of Commons Public Bill Committee, September 2011
- Briefing for the Holyrood Committee on the Scotland Bill, September 2011
- Response to UK Border Agency consultation on family migration, October 2011
- Briefing on Terrorism Prevention and Investigative Measures Bill for House of Lords committee stage, October 2011
- Briefing on Legal Aid, Sentencing and Punishment of Offenders Bill for House of Commons report stage, October 2011
- Briefing on Protection of Freedoms Bill for House of Lords second reading, November 2011
- Submission to UN Human Rights Council on the universal periodic review, November 2011
- Briefing on Terrorism Prevention and Investigative Measures Bill for House of Lords report stage, November 2011
- Response to Bill of Rights Commission, November 2011
- Briefing on Legal Aid and Punishment of Offenders Bill for House of Lords second reading, November 2011
- Response to EU Commission green paper on detention (with ICJ), November 2011
- Initial response to the Carloway report, November 2011
- Briefing on Protection of Freedoms Bill for House of Lords committee stage, December 2011
- Briefing and proposed amendments on Legal Aid, Sentencing and Punishment of Offenders Bill for the House of Lords committee stage, December 2011
- Joint NGO briefing on the reform of the European Court of Human Rights (section on domestic implementation), December 2011
- Briefing and amendments on the role of the Supreme Court, Scotland Bill, December 2011
- Written and oral evidence on EU criminal procedure for House of Lords EU Justice sub-committee, December 2011
- Written and oral evidence on the Carloway review to the Scottish Parliament Justice Committee, December 2011
- Response to government consultation on protest and police powers, January 2012
- Submission to the Parliamentary Joint Committee on Human Rights inquiry on the justice and security green paper, January 2012
- Briefing on Legal Aid Sentencing and Punishment of Offenders Bill for House of Lords committee stage, January 2012
- Briefing on role of the Supreme Court, Scotland Bill, for House of Lords committee stage, January 2012
- Response to Home Office consultation on police powers and public order, January 2012
- Briefing on Part 3 of Legal Aid, Sentencing and Punishment of Offenders Bill for House of Lords committee stage, February 2012
- Oral and written evidence to the Parliamentary Joint Committee on Human Rights on the justice and security green paper, February 2012
- Joint NGO briefing on the government's 'Draft Brighton Declaration on the Future of the European Court of Human Rights', March 2012
- Joint NGO statement in advance of Brighton negotiations on the future of the European Court of Human Rights, April 2012
- Briefing on the Crime and Courts Bill for House of Lords committee stage, June 2012
- Supplementary briefing on the Crime and Courts Bill on section 5 Public Order Act, June 2012
- Briefing on Defamation Bill for House of Commons second reading, June 2012
- Briefing on Justice and Security Bill for House of Lords second reading, June 2012
- Briefing on Article 8 (right to respect for private and family life) of European Convention on Human Rights for House of Commons motion for debate, June 2012



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to the thousands – members, donors, Friends of JUSTICE, volunteers, interns, conference speakers, pro bono lawyers and consultants, working group and committee members – who have helped us over the past year.

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**Legal Officer and Acting Administrator** Hayley Smith (to November 2011)

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