

**CENTRE FOR CRIMINAL  
JUSTICE STUDIES  
EIGHTH ANNUAL  
REPORT  
1995-96**

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## **Table of Contents**

Introduction.

The Work of the Centre.

A Research projects.

B Postgraduate study.

C Relevant papers and publications by members of the Centre during 1994/5.

D Seminars, Conferences and Continuing Education.

### **Appendices**

Appendix 1 - Constitution of The Centre, (as amended in 1996).

Appendix 2 - Membership of The Centre.

Appendix 3 - Seminar Programme for 1996-97.

Appendix 4 - Centre Papers.

- Women, Politics & The Peace Process in Northern Ireland. Anne Spencer Memorial Lecture, 7 November 1995, Angela, Hegarty.

Magistrates Courts and Socio-Legal Studies, Ben Fitzpatrick.

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## **INTRODUCTION**

The Centre for Criminal Justice Studies has been established since 1987. Its object, as set out in its Constitution (see *Appendix 1*), is the pursuit of research and study into all aspects of criminal justice systems. This remit, as undertaken by the Executive Committee (see *Appendix 2*), has in practice included the encouragement of postgraduate students and research projects, and the arrangement of seminars and

conferences. The Centre's members comprise both lawyers and non-lawyers, and its work is generously assisted by an Advisory Committee, which consists of academics and practitioners in relevant fields of experience (*Appendix 2*).

This Annual Report provides a résumé of some of the activities of the Centre from 1 July 1995 to 30 June 1996. My colleagues and I have secured significant further expansion of the Centre during this time, including the appointment of two full-time academic staff (Ben Fitzpatrick and Dr. Jo Goodey) specifically to the Centre, the consolidation of our Criminal Justice postgraduate taught course programmes as well as a record number of postgraduate research students. In addition, every member of the Centre has been engaged in funded project work as well as a wide range of scholarly published output. As a reflection of our continued success, the Centre has just recently relocated to a consolidated suite of offices, now forming a large annexe to the Faculty of Law.

Our recent history has also witnessed a notable loss as well as gains - namely, the death of Professor Brian Hogan at the beginning of 1996. Though Brian's interests and activities ranged much wider than criminal justice, he was certainly one of the founding fathers of this Centre.

The activities of the Centre are reflected in our very full seminar programmes (see *Appendix 3*) and in the production of Working Papers (see *Appendix 4*). To add to these activities, in 1996-97, we are particularly seeking to encourage a wider community to participate in our activities by inviting applications from visiting scholars. Details of the scheme are set out in *Appendix 5* (which also includes an application form on the final two pages of the Report).

*Professor Brian Hogan's eight edition Mr Ray Kendall, INTERPOL, February 1995*

## ***Professor Clive Walker***

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1 October 1996

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## **THE WORK OF THE CENTRE**

### **A Research projects**

The following substantial research projects are currently in progress:

***(a) Reporting of Criminal Proceedings in Scotland and the Contempt of Court Act 1981.***

This project was originally funded by the Leverhulme Trust and investigated the frequency and nature of orders under sections 4 and 11 of the Contempt of Court Act 1981. That phase of the research has now been fully reported (see: Clive Walker, Ian Cram, and Debra Brogarth, "The reporting of Crown Court proceedings and the Contempt of Court Act 1981" (1992) 55 *Modern Law Review* 647). Related research is now under way into the corresponding practices in Scotland conducted by Ian Cram and Clive Walker and comparative responses in the USA (which has involved research by Clive Walker based at the University of Louisville, Kentucky and at George Washington University, Washington DC). Out of this research, further substantial papers have been published (Walker, "Fundamental rights, fair trials and the new audio-visual sector", (1996) 59 *Modern Law Review* 517) and a book is currently being written for Oxford University Press.

***(b) Legal aid research***

Research carried out upon criminal legal aid and funded by the E.S.R.C. under the title, *The Administration of Legal Aid in the Magistrates' Courts: Access to Criminal Justice*, was finalised in August 1995. Arising from research, David Wall co-authored a book, Young, R. and Wall, D.S. (eds), *Access to Criminal Justice: legal aid, lawyers and the defence of liberty*, (London: Blackstone Press, 1996), as well as other academic publications.

A further project, *The means testing of criminal legal aid* (David Wall and Jenny Johnstone) was funded by the National Audit Office 1995-6 This research looked at the employment of the means test in the determination of applications for criminal legal aid in the Magistrates Courts. The final report (Wall, D.S. and Johnstone, J. (1996) *Means-testing Applicants for Criminal Legal Aid: Final Report*, Leeds: Centre for Criminal Justice Studies) informed the *Report by the Comptroller and Auditor General: Criminal Legal Aid Means Testing in the Magistrates' Courts*, (London: HMSO, 1995-6 HC 615).

***(c) The diversion of mentally disturbed offenders***

Judith Laing, the postgraduate student who has been researching this subject within West Yorkshire, has now completed her thesis and it is hoped to present a report to project workers in the coming session.

***(d) Victim/Offender Mediation and Reparation in Comparative Criminal Justice Cultures: A Comparison of France and England.***

Funded by the ESRC, Adam Crawford is conducting comparative research into the recent history and development of victim/offender mediation in England and France. The project involves extensive fieldwork - notably interviews with key criminal justice agency personnel, and observational data - in a number of selected schemes in both countries. The French fieldwork will be conducted in the first half of 1997 in Paris, Lyon, Lille and Bordeaux. The research project will seek to locate the growth

and practice of victim/offender mediation and reparation within a wider cultural framework. It will identify divergences and similarities between the ideologies, policies and practices in the two countries. The research is being conducted with the support of the Institut des Hautes Etudes sur la Justice in Paris.

***(e) The Impact of Race and Racism on Boys' Fear of Crime***

Funded by the Nuffield Foundation Social Science Small Grant Scheme, Dr Joanna Goodey is conducting research with the aim of defining and exploring boys' fear of crime as it relates, firstly, to their age and their socialisation into adult norms of expected male behaviour and, secondly, to their race and their socialisation into an appropriate racial identity. The central themes of the research are fear of crime, victimisation, the socialisation of masculinity and race. Racism is used as the key to realizing and understanding boys' fear of crime. The fieldwork includes interview sessions are conducted with groups of boys aged 8-16 on their experiences of community, crime, victimisation and fear of crime. Boys from ethnic minority backgrounds and the white majority are interviewed. All of the boys come from similar working class districts of Sheffield. Other fieldwork involves liaison with self-supporting Asian youth groups in the communities under study. The research period is due to end in March 1997.

***(f) Family contact centres***

This research by Clare Furniss is an attempt to evaluate the service provided to families to assist children and parents stay in touch following family breakdown. Although a lot of the families had experienced intense conflict, leading to physical violence in some cases, this was not true of them all, and families cited a variety of reasons why they had been referred to the Centre. The potential conflict between helping families stay in contact, and ensuring a woman's safety from her ex-partner is a hotly debated one at the moment. The project will be looking at this in more depth in the coming year. The project has involved observations, interviews and data collection from files, as well as literature surveys.

***(g) Political violence and Commercial victims***

Following the IRA bombings of the City of London in 1992 and 1993, action was taken by the Government to steady the insurance market in Britain so as to ensure that insurance remained available for commercial properties. The Airey Neave Trust has now funded research into the working of these arrangements and into the security aspects, such as traffic management and contingency planning, which have arisen. A researcher, Martina McGuinness, is assisting Professor Clive Walker with the study. There are both reinsurance aspects of the project, as well as the security aspects. As part of the latter, Professor Walker interviewed responsible officers in the City of London Police and Corporation during July and September 1995 and also visited Washington DC in August 1995 to investigate Federal and State intervention into the insurance markets with reference to earthquakes and hurricanes.

***(h) Police National Legal Database Consortium***

A team originally from the West Yorkshire Police has established a wide-ranging

database of legal information of relevance to police officers. The Centre's staff (including Paul Eden, Clare Furniss, Alan Reed, Peter Seago, and Clive Walker) continue to act as auditors of the data being entered. It is hoped in due course to evaluate the impact of the database. The success of our work has encouraged interest from other police forces, and a similar agreement to provide advice was made in late 1995 with the British Transport Police.

***(i) The Role and Appointment of Stipendiary Magistrates.***

A working party (Chaired by Roger Venue) set up by the Lord Chancellor's Department to consider the relationship between lay and stipendiary magistrates and the number of appointments of stipendiary magistrates outside of the Metropolitan area, invited the Centre for Criminal Justice Studies to research into the role and appointment of stipendiary magistrates. The research was undertaken by Peter Seago, Clive Walker and David Wall at both sample courts and with all permanent, visiting and acting stipendiaries. The report to the Lord Chancellor's Department has now been published (see Appendix 4 for an extract) as Seago, P., Walker, C.P., and Wall, D.S., *The Role and Appointment of Stipendiary Magistrates*, (1996). This research is referred to in *The role of the Stipendiary Magistracy: A report prepared by a working party established by the Lord Chancellor*, February 1996.. The full report contains an historical perspective of the development of the magistrates' courts, an analysis of the reasons why stipendiaries have been appointed in the provinces, an analysis of the work they do in court and their relationship with the lay magistrates. It concludes with a discussion of issues which will need to be considered in the future. For the longer term, the research team aims to publish the findings more widely (for example, we attended a conference in Vancouver in August 1996 and presented a paper). We also plan to extend the research to comparable jurisdictions, especially Northern Ireland and Canada.

***(j) An Evaluation of Transfer for Trial in the Magistrates' Courts.***

The Home Office is commissioning research to evaluate the impact of the abolition of committal for trial in the magistrates' courts and its replacement by transfers for trial. The team of researchers include principally Ian Brownlee and Clare Furniss, together with Professor Clive Walker. In this project we have been studying the present committal procedure, both the old-style procedure and also the paper committal procedure. We have been particularly interested in finding out whether the old-style committals act as an effective filter and whether, when the right to call witnesses at these hearings is abolished, there will be an increase in ordered and directed acquittals at the Crown Court. As well as producing data for the Home Office, we are also exploring the proposed changes to the committals hearings against the backdrop of the due process/ crime control debate. We gave a paper at the SLSA conference last April, talking about these theories and how they impact upon the treatment which both defendants and victims receive at committal hearings and a paper is to be published in the *Criminal Law Review*. The project is funded for two years from June 1995, but this deadline is likely to be extended in view of the uncertainties which have occurred over the details of the new scheme.

***(k) Crime Prevention and Community Safety***

Adam Crawford is currently researching the contemporary state of crime prevention and community safety, with a particular emphasis upon comparative aspects, for a book to be published as part of the Longmans criminology series, under the title *Crime Prevention: Politics, Policies and Practices*. This will develop upon his earlier work *The Local Governance of Crime: Appeals to Community and Partnerships* to be published in early 1997 by Oxford University Press.

***(l) The Imprisonment of TV Licence Evaders:***

A study has been conducted by David Wall, Professor Clive Walker and Professor Jonathan Bradshaw (University of York) into the disproportionate number of women who are imprisoned annually for fine default arising from not paying the television licence fee. Substantial contacts were made with the Post Office and other enforcement agencies. A major publication of the findings is now pending in the *Criminal Law Review*.

***(m) The Chief Constables of England and Wales 1985 - 1995.***

This is the final part of a long term project, conducted by David Wall, which looks at every appointment to Chief Constable in England and Wales since 1835. This work will be published as *The Chief Constables of England and Wales 1835-1995: The Home Office, The Police Authority and the Selection of Chief Constables*, by Dartmouth (intended for publication in 1998).

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## **B Postgraduate study**

***(a) Study facilities***

There are three postgraduate student annexes (one for taught course students and two for research students, all with computing and social facilities. Within the Law Library, there is a special Criminal Justice Studies Room (including most of the Kenneth Elliott collection), as well as three computer clusters.

***(b) Postgraduate research degree schemes.***

The Centre wishes to encourage applications from anyone wishing to pursue research into the criminal justice system. This subject may be taken to include, for example, the judiciary, the prosecution system, the police and policing authorities, the prison and probation services, the courts and the judiciary, criminology and penology, criminal law and terrorism, victims and mediation. Any relevant research topic in these or related areas will be considered. A number of possible areas of research have been considered with our Advisers and can be suggested on request, but applicants are not precluded from devising their own proposals. Comparative studies will be considered. The work of students may be assisted by practitioners in our Advisory Committee or by other contacts in the field. Formal instruction in research methodology is provided as a standard training package, and joint supervisions in interdisciplinary subjects can be arranged. Scholarships may be available, and the Centre has been recognised as a Mode B institution for the receipt of E.S.R.C. scholarships.

The relevant degree schemes on offer (all by research and thesis only) are as follows:

- *Master of Arts (M.A.)* -

one year full-time or two years part-time;

- *Master of Philosophy (M.Phil.)* -

two years full-time or three years part-time;

- *Doctor of Philosophy (Ph.D.)* -

three years full-time or four years part-time.

The entrance requirements common to all three schemes are that applicants must normally possess a good honours degree, but those with professional qualifications or substantial professional experience will be considered. The detailed regulations governing the above degree schemes are available on request.

***(c) Current postgraduate research students***

Okoye, Cyril, B.A., M.P.A. - Cross-cultural perspectives on the social disorganisation of prisons in Canada and the U.K. (Ph.D., October 1991)

Palfrey, Terry, B.A., - The development of an inquisitorial system in fraud investigation and prosecution (Ph.D., April 1993, part time)

Gagic, Leanne, B.A. - A study of young women whose mothers are in custody (M.A., April 1993, part-time)

English, James, LL.B., - The rise and fall of unit fines (Ph.D., September 1993)

Healey, Dominique, B.A. - The treatment of criminals in China, with reference to Chinese and international concepts of individual human rights and freedoms (Ph.D., October 1993, part time)

Ellison, Louise, LL.B. - A comparative study of the rape trial within adversarial and inquisitorial criminal justice systems (Ph.D., November 1993)

Gammanpila, Dakshina, LL.B. - The Police Surgeon: Principles and Practice (Ph.D., October 1994)

McGuinness, Martina, MBA, Political Violence and Commercial Victims (Ph.D., October 1994)

Pocsik, Ilona, LL.M. - Probation in Transition (Ph.D. December 1994, part-time)

Wade, Amanda - Children as Witnesses (Ph.D., January 1995)

McCracken, Michael, LL.B., - The banking community and paramilitary money laundering (M.A., September 1995, part-time)

Mukelabai, Nyambe LL.M. - The relationship between universal human rights doctrine and basic rights and freedoms in Zambia (PhD, October 1995)

Matassa, Mario B.A., M.A., Dip. Res. Methods - Unravelling Fear of Crime in Northern Ireland (Ph.D. October 1995)

Akdeniz, Yaman, LL.B., - The Internet: Legal implications for free speech and privacy (M.A., October 1995)

Barton, Patricia LLB., M.A. - Police accountability, consumerism and commercialism (Ph.D., October 1995)

Ali, Shaukat, LL.M. - Provocation as a defence to murder (M.A., October 1996)

Kerr, Iain, LL.B. - Legal regulation of the internet (M.A., October 1996)

*(d) Postgraduate research degrees awarded to Centre students*

Shanks, Rachel, LL.B - Freedom of movement in the U.K. and France and the prevention of terrorism with special reference to European Community law (M.A., 1992)

Ford, Lindy C., M.Sc, B.Sc. - Homelessness and persistent petty offenders (Ph.D., 1993)

Acharya, Neena, LL.B. - The Police and Race Relations (M.A., 1993).

Ghosh, Saumya, LL.B. - A comparative study of some exceptions to the hearsay rule with special reference to England and India (M.A., 1993)

Harrison, Bronwyn, B.A. - The development of juvenile cautioning and its implications for police practice and procedure (M.A., 1993).

Davies, David Ioian, LL.B. - Identification evidence (M.A., 1994)

Moraitou, Areti, LL.B. - The law and practice in relation to fingerprinting by the police with respect to England and Greece (M.A., 1994)

Joliffe, Paul, LL.B. - The use of interpreters in Magistrates' Courts (M.A. 1995)

Ogden, Neil, LL.B. - The private security sector (MA, 1995)

Laing, Judith, LL.B. - Mentally disordered offenders and their diversion from the criminal justice system (Ph.D., 1996)

Boland, Fay, B.C.L. - Diminished responsibility as a defence in Ireland having regard to the law in England, Wales and Scotland (Ph.D., 1996)

Murray, Jade, LL.B. - A study of post-appeal procedures for dealing with miscarriages of justice (MA, 1996)

*(e) Postgraduate taught courses*

The graduates from the 1995-96 courses will be as follows:

Angelides, Lorenzo MA Full-time

Baldwin, Pamela MA Full-time

Bouzika, Katerina MA Full-time

Lawless, Tim MA Full-time

Lister, Stuart MA Part-time

Shackleton, Bill MA Part-time

The students studying in 1996-97 are expected to be as follows:

Bickler, Darryl P. Cert Part-time

Clark, Mrs A.E. Cert Part-time

Degnan, Miss Sarah MA Part-time

Fehintola, Mr A.O. Dip Full-time

Ghimire, Mr K.J. Cert Part-time

Hampson, Ms S J MA Part-time

Hanson, Robert MA Part-time

Jordan, Miss L M MA Part-time

Letcher, Tom MA Full-time

McNulty, Mr B R Cert Part-time

Meachem, Clare MA Part-time

Nawaz, Ms Shireen MA Part-time

Patel, Naimisha MA Full-time

Robertson, Joanne MA Full-time

Scourfield, Mr I H Cert Full-time

Sjoling, Ms Lisen Dip Full-time

Stansfield, Mrs S N MA Part-time

Sweeney, Ms Adele MA Part-time

Thompson, Miss K J MA Full-time

**The programmes offered in 1996-97 are as follows.**

### **M.A. (Criminal Justice Studies)**

**Objectives:** To enable students to acquire new theoretical perspectives on, and wider knowledge about, criminal justice systems as well as a grounding in research methodology and the capacity to undertake research projects.

**Duration:** 12 months full time; 24 months part time. Note that some of the courses offered can be taken as free standing units with later accreditation.

**Entry requirements:** A good honours degree in law, social sciences or related subjects.

**Contents** (to amount to 120 credits):

The compulsory courses are:

1. Criminal Justice Research methods and skills (20 credits)
2. Criminal Justice Process (20 credits)
3. Criminal Justice Policies and Perspectives (20 credits)

The optional courses (students must select 20 credits):

4. Policing I (10 credits)
5. Policing II (10 credits)
6. Political Violence and Criminal Justice Systems (10 credits)
7. Victims and victimology (10 credits)
8. European aspects of criminal justice (10 credits)
9. Forensic medicine and forensic science (10 credits)

10. Theories of Crime and Punishment (10 credits)

Plus as a compulsory element:

12. Dissertation of up to 15,000 words (40 credits)

### **Diploma in Criminal Justice Studies**

**Duration:** 9 months full time, 18 months part time. Note that some of the courses offered can be taken as free standing units and later accreditation can be granted.

**Entry requirements:** A good honours degree in law, social sciences or related subjects. Persons without degrees but with professional qualifications or experience will be considered.

**Contents:** Students select from the courses listed for the M.A. scheme. There is no compulsory course or dissertation.

### **Certificate in Criminal Justice Studies**

**Duration:** 9 months part time. Note that some of the courses offered can be taken as free standing units and later accreditation can be granted.

**Entry requirements:** A good honours degree in law, social sciences or related subjects. Persons without degrees but with professional qualifications or experience will be considered.

**Contents:** Students select from the courses listed for the M.A. scheme. There is no compulsory course or dissertation.

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## **C. Relevant papers and publications by members of the Centre during 1994/5**

### ***(a) Courts, court procedures and court personnel***

Fitzpatrick, B., Paper on "Magistrates' Courts and Socio-Legal Studies", presented at the Socio-Legal Studies Association Annual Postgraduate Conference, Jan 1996, College of Ripon and York St. John. This paper won the Butterworths Prize 1996.

Fitzpatrick, B., Paper on "W(h)ither legal theory?: The Magistrates' Courts and Experiential Jurisprudence", presented at the Socio-Legal Studies Association Annual Conference, April 1996, University of Southampton.

Fitzpatrick, B., Paper on "Lower Courts and Legal Theory", presented at the Joint Meeting of the Law and Society Association and the Research Committee on the Sociology of Law of the International Sociological Association, July 1996, University of Strathclyde.

Seago, P., Walker, C.P., and Wall, D.S. (1996) *The Role and Appointment of Stipendiary Magistrates*, Leeds: Centre for Criminal Justice Studies and The Lord Chancellor's Department. Prepared for The Lord Chancellor's Department. See Lord Chancellor's Department (1996) *The role of the Stipendiary Magistracy: A report prepared by a working party established by the Lord Chancellor*, February 1996.

Walker, CP (with Wall, D), Paper delivered on "Judicial independence and the Growth of the Professional Magistracy in England and Wales", Society for the Reform of the Criminal Law Conference on Challenges to Criminal Justice in a Changing World, Vancouver, 1996

Walker, CP, "Review in error" (1995) 35 *British Journal of Criminology* 661 - 663

Wall, D.S. (1995), Paper on Comparing Access to Criminal Justice: Comparative research and the debate over legal aid policy. *Proceedings of the Canadian Law and Society Annual Meeting*, Montreal, June 1995.

Wall, D.S. (with Young, R.) (eds) (1996) *Access to Criminal Justice: legal aid, lawyers and the defence of liberty*, London: Blackstone Press, 376pp, including Wall, D.S.(with Young, R.) (1996) "Criminal Justice, Legal Aid and the Defence of Liberty," pp. 1-25, Wall, D.S. (1996) "Keyholders to Criminal Justice?: solicitors and applications for legal aid" pp.114-136

Wall, D.S. (1996) "Legal Aid, Social Policy and the Architecture of Criminal Justice: The supplier induced demand thesis and legal aid policy", *Journal of Law and Society*, vol 23, no.4, pp.549-569

Wall, D.S. and Johnstone, J. (1996) *Means-testing Applicants for Criminal Legal Aid: Final Report*, Leeds: Centre for Criminal Justice Studies. Prepared for the National Audit Office. See National Audit Office, (1996) *Report by the Comptroller and Auditor General: Criminal Legal Aid Means Testing in the Magistrates' Courts*, (London: HMSO, HC 615 Session 1995-6).

Wall, D.S. (1996) Paper on "The supplier induced demand thesis and legal aid policy," *International Legal Aid Group (ISA)* Peyresq, France, July 14-16.

Wall, D.S. (1996) Paper on "Legal Aid Policy and Access to Criminal Justice," *Socio-legal Studies Association Annual Conference*, Southampton, April 1996.

Wall, D.S., (1996) Paper on "Legal Aid, Lawyers and Criminal justice", public seminar, Centre for Criminal Justice Studies, University of Leeds, February 14 1996.

Wall, D.S. (1995) Paper on "Legal Aid, The Green Paper and the Architecture of Criminal Justice", *British Criminology Conference*, Loughborough, 20 July 1995.

Wall, D.S. (1995) Paper on "Policy into Practice: The effects of the Criminal Justice Act 1991 and other recent policies upon the administration of Criminal Legal Aid," *Proceedings of the Socio-legal Studies Conference*, Leeds, March 1995.

Wall, D.S. (1995), Paper on "The International Crises In Legal Aid: Lawyers and

Legal Aid in Common Law Jurisdictions," *Proceedings of the Law and Society Annual Meeting*, Toronto, June 1995.

**(b) Criminal law**

Brownlee, I D and Seneviratne, M "Killing with Cars after Adomako: Time for Some Alternatives" [1995] *Criminal Law Review* 389-392.

Reed, M.A., "Involuntary intoxication does not negative criminal intent" *The Journal Of Criminal Law* vol 59, part 1, p.76-78.

Reed, M.A., "Strict Liability Offences: The Need For Careful Legal Advice To Corporations and to Individuals" *The Criminal Lawyer* No52-p.3-6

Reed, M.A., "Offences against the person; the need for reform" *The Journal Of Criminal Law* vol.59, part2, p.187-198

Reed, M.A., "An analysis of fraud vitiating consent in rape cases" *The Journal Of Criminal Law* vol59, part3, p.310-315

Reed, M.A., "Strict liability offences; a radical analysis of recent decisions" *Environmental law and management* vol7, issue4, p.156-161

Reed, M.A., "Anomalies created in the criminal law by recent case precedents" *The Criminal Lawyer* no.58, p.1-5

Reed, M.A., "Self- defence, excessive force and the fundamental requirement of a jury direction on private defence" *The Criminal Lawyer* no59, p.1-5

Reed, M.A., "Withdrawal from the joint enterprise and accessoryship liability" *The Criminal Lawyer* no60, p.1-5

Reed, M.A., "Provocation, abnormal traits and necessity" *The Criminal Lawyer* no61, p.1-5

Reed, M.A., "Rape, fraud and consent" *Solicitors Journal* vol.139, p.44-46

Reed, M.A., "Contra bonos mores" *New Law Journal* vol.145, p.174-176

Reed, M.A., "Duress of circumstance and joint enterprise" *The Solicitors Journal* vol.139, p.1054-1056

Reed, M.A., "Recent developments in the law relating to rape, prostitution and criminal damage" *The Criminal Lawyer* no.62, p.1-6

Reed, M.A., "The age of criminal responsibility, judicial law-making and theft" *The Criminal Lawyer* no.63, p.1-5

Reed, M.A., "Stalking; new developments regarding the psychological infliction of grievous bodily harm" *The Criminal Lawyer* no64, p.1-5

- Reed, M.A., "The reasonable man concept and criminal damage" *The Criminal Lawyer* no.65, p.1-5
- Reed, M.A., "Matters of life and death" *The Criminal Lawyer* no.66, p.1-5
- Reed, M.A., "Self-defence, applying the objective approach to reasonable force" *The Journal Of Criminal Law* vol,60, part1-p.94-100
- Reed, M.A., "The irrelevance of low intelligence quotient to a claim for duress" *The Criminal Lawyer* no.67, p.1-4
- Reed, M.A., "Joint participation in criminal activity" *The Journal Of Criminal Law* vol.60, part3, p.310-325
- Reed, M.A., "Criminal attempts and provocation" *The Criminal Lawyer* no.68, p.1-5
- Reed, M.A., "Obtaining property by deception and corporate fraud" *The Criminal Lawyer* no.69, p.1-6
- Reed, M.A., "Excuses to Murder Salutory Lessons From Recent Jurisprudence In England And The U.S" *Journal of transnational law and policy*, Florida State University, vol6, part 1, p.1-35
- Reed, M.A., "Provocation; a concession to human frailty; recent English developments as a basis for reform of US jurisprudence" *The Journal Of Criminal Law* vol.60, p.310-323
- Reed, M.A., "Excuses to murder; A dichotomy between English and U.S law", Seminar paper delivered at the University of Louisville, Kentucky, 1995.
- Seago, P.J., *Annual Review*, All England Law Reports (1995) pp147 - 166
- Seago, P.J., "The Protection of the unborn child", Paper delivered to the Nicosia Bar Association, Sept 1996
- Walker, CP, Paper delivered on "Public Order Law Update" - seminar for Yorks and Humberside Justices' Clerks Society, Wetherby, 1995
- Walker, CP, Paper delivered on "Counter-terrorism laws for the new millenium", British Irish Rights Watch, 1996
- Walker, CP, Paper delivered on "Cyber contempt", Media Law subject section, Society for Public Teachers of Law Annual Conference, Cambridge, 1996
- Walker CP, "The governance of special powers" in Gearty and Tomkins, *Undersanding Human Rights* (Mansell, 1996) 611-643
- Walker, CP and Stockdale, R, "Forensic science and miscarriages of justice", (1995) 54 *Cambridge Law Journal* 69-99

Walker, CP, "Book review, McCrudden and Chambers, *Individual Rights and the Law in Britain*" (1995) 14 *Civil Justice Quarterly* 146-148

Walker, CP, "The governance of special powers" (1995-96) 38 *University of Leeds Review* 115-148

Walker, CP, "Review article: *Emergency Law in Ireland* by Colm Campbell" (1995) 15 *Legal Studies* (Butterworths) 311-322.

Walker, CP, Written response to Second and Third Reports of the Independent Assessor of Military Complaints Procedures (1995)

Walker, CP, Written response to the Second Annual Report of the Independent Commissioner for the Holding Centres (1995)

Walker, CP, Written and oral representations to the Inquiry into Legislation against Terrorism, 1996 (including oral evidence to Lord Lloyd)

Walker, CP, "Fundamental rights, fair trials and the new audio-visual sector", (1996) 59 *Modern Law Review* 517-539

Walker, CP, "Anti-terrorism laws for the future" (1996) Vol.146 *New Law Journal* 586-588, 657-658

### ***(c) Criminology and penal matters***

Brownlee, I D "Intensive Probation with Young Adult Offenders: a Short Reconviction Study" *British Journal of Criminology* Vol 35 (1995) No 4, 599-612.

Wall, D.S. (1996) Review of *Just Boys Doing Business?: Men, Masculinities and Crime*, edited by Tim Newburn and Betsy Stanko, *International Review of Victimology*.

### ***(d) Policing and crime prevention***

Brownlee, I D and Walker, C P "The Urban Crime Fund: Community Policing Initiatives in West Yorkshire" Paper presented to the British Criminology Conference, Loughborough University of Technology, July 1995

Crawford, A., *The Local Governance of Crime: Whither Accountability and Social Justice?*. Paper delivered at Northern Branch of the British Society of Criminology and Centre for Criminal Justice Studies, University of Leeds, seminar programme, 17th October 1995.

Crawford, A., "Kirkholt Revisited: Some Reflections on the Transferability of Crime Prevention Initiatives" (with Matthew Jones) (1996) *Howard Journal of Criminal Justice*, 31:1, 21-39.

Crawford, A., '*The Local Governance of Crime: Questions of Accountability and Social Justice*', Paper delivered at 'Crime, Criminology and Change' Australian and New Zealand Society of Criminology Conference, Victoria University of Wellington, 29 January-1 February 1996.

Crawford, A., '*The Local Governance of Crime: Appeals to Community and Partnerships*', Paper delivered at American Law & Society Conference, University of Strathclyde, 10-13 July 1996.

Taylor, N. and Walker, C.P., "Bugs In The System". (1996) 1 *Journal of Civil Liberties* 105. An earlier version of this paper was offered at the Open Conference on Surveillance, (<http://wabbit.its.uow.edu.au/arts/sts/research/surveillance/index.html>) University of Wollongong, November 1995.

Walker, CP, Paper delivered on "The impact of new technologies: the right of the individual and the public interest in legal proceedings", Council of Europe conference on "Fundamental rights and new information technologies in the audiovisual sector", Council of Europe, Strasbourg, 1995

Walker, CP, Paper delivered on "Fair trials and the New Audio-Visual Media", Oxford University Press, Workshop on Human Rights Law, Oxford, September 1996

Wall, D.S. (1995), Paper on "The Policing of Popular Culture, *Proceedings of the Canadian Law and Society Annual Meeting*, Montreal, June 1995.

Wall, D.S. (1996) "Responding to Hi-tec Crime," in Grundy, M., and Wood, B. (ed) (1996) *A Growth Industry: the theft of computer hardware and component parts*, Manchester: Henry Fielding Centre, University of Manchester: Association of Chief Police Officers.

Wall, D.S. (1995) "Technology and Crime: Increased capital investment in information technology and changes in victimisation patterns", chapter in *International Year-book of Law, Computers and Technology: Volume Nine*, Oxford:Carfax Publishing. pp. 97-109

Wall, D.S. and Bradshaw, J.R. (1995) "The Hidden Impact of the TV Licencing System," *The Magistrate*, February 1995, pp. 7 & 25.

Wall, D.S., (1996) Paper on "The implications of cyber-crime for university security," *Annual Meeting of the Association of University Security Chiefs*, University of Newcastle, 11 September.

Wall, D.S. (1996) Paper on "Policing the Soul of Elvis", "*Then Sings My Soul, Elvis and the Sacred South*", *Second International Conference on Elvis Presley, Centre for Southern Culture*, University of Mississippi, Oxford, Mississippi, August.

Wall, D.S. (1995) Paper on "Responding to Hi-tec Crime: Towards Policing the Virtual Community," *Proceedings of 'A Growth Industry: The first national conference to address the theft of computer hardware and component parts*, Henry Fielding Centre, University of Manchester, September 1995.

*(e) Victims, fear of crime and mediation*

Crawford, A., "Alternatives to Prosecution: Access to, or Exits from, Criminal Justice?" in Young R. and Wall, D. (eds.) (1996) *Access to Criminal Justice: Lawyers, Legal Aid and the Defence of Liberty*, Blackstone Press, 313-44.

Crawford, A., "The Spirit of Community: Rights, Responsibilities and the Communitarian Agenda", (1996) *Journal of Law and Society*, 23:2, 247-62.

Crawford, A., "Review of Merry and Milner (eds.) 'The Possibility of Popular Justice: A Case Study of Community Mediation in the United States'", (1996) *International Journal of the Sociology of Law*, 24:3.

Crawford, A., '*Victim/Offender Mediation in Comparative European Legal Cultures: A Comparison of France and England & Wales*', Paper delivered at 'Crime, Criminology and Change' Australian and New Zealand Society of Criminology Conference, Victoria University of Wellington, 29 January - 1 February 1996.

Crawford, A., '*A Comparison of Victim/Offender Mediation in France and England*', Paper delivered at International Mediation Seminar 6-7 June 1996: International Institute for the Sociology of Law, Oñati, Spain.

Crawford, A., '*Mediation and Appeals to Community in Britain and France*', Paper delivered at American Law & Society Conference, University of Strathclyde, 10-13 July 1996.

Crawford, A., '*Victim/Offender Mediation in Different Cultural Contexts: Some Analytic Tools for Comparative Criminology*', Paper delivered at ESRC 'Crime and Social Order in Europe' Conference, Manchester 7-10 September 1996.

Goodey, J. (1995) "Fear of Crime: Children and Gendered Socialisation" in Dobash, Dobash and Noaks (eds) *Gender and Crime*, Cardiff: University of Wales Press, pp.295-312.

Goodey, J., Paper delivered at "Building Identities" - Gender Perspectives on Children and Urban Space, Amsterdam, 11-13 April 1995 on "Learning to Fear: The Socialisation of Gendered Fear Among 11-16 Year Olds"

Goodey, J., Paper delivered at The British Criminology Conference, Loughborough, 18-21 July 1995, on "Learning to be Men: The Denial of Fear Among 11-16 Year Old Boys"

Goodey, J., Paper delivered at The American Society of Criminology Conference, Boston, 15-19 November 1995 on "Boys Don't Cry ? The Socialisation of Gendered Fearlessness Amongst British Males Aged 11-16" (British Academy grant awarded)

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## **D. Seminars, Conferences and Continuing Education**

**STAFF, STUDENTS AND VISITING SPEAKERS**

***"The Local Governance of Crime: Whither Accountability and Social Justice?"***

**Adam Crawford**, Centre for Criminal Justice Studies, University of Leeds. Tuesday 17th October 1995. (Organised in association with the Northern Branch of the British Society of Criminology)

***"Private Security and the Demand for Protection in Contemporary Society"***

**Ian Loader**, Department of Criminology, Keele University. Wednesday 25th October 1995

**The Anne Spencer Memorial Lecture**

***"The Peace Process in Northern Ireland and the Role of Women"***

**Angela Hegarty**, Chair of the Committee on the Administration of Justice, Northern Ireland. Tuesday 7th November 1995. (see Appendix 4 for a copy of this paper)

***"Repeat Victimisation: Fashion or Future?"***

**Professor Ken Pease**, University of Huddersfield. Wednesday 22nd November 1995 - 1.00 p.m.

***"Managing Sex Offenders in the Community; A Comparison of Experiences in the UK and USA"***

**Terry Thomas**, Leeds Metropolitan University. Wednesday 6th December 1995 - 1.00 p.m.

***"The Growth of Legal Consciousness in China"***

**Dominique Healey**, Amnesty International, and Research Student, Centre for Criminal Justice Studies, University of Leeds. Wednesday 13th December 1995 - 1.00 p.m.

***"Legal Aid, Lawyers and the Architecture of Criminal Justice"***

**David Wall**, Centre for Criminal Justice Studies, University of Leeds. Wednesday 14th February 1996.

***"Probation Values for the 1990's: Some Further Thoughts"***

**Mike Nellis**, Department of Social Policy and Social Work, University of Birmingham. Thursday 7th March 1996.

***"Citizens Rights, Complaints and Criminal Justice in a Multi-Racial Society"***

**Karamjit Singh**, Centre for Research in Ethnic Relations, University of Warwick and

ex- member of the Police Complaints Authority, and current member of the Judicial Studies Board and Parole Board. Wednesday 13th March 1996.

***"The Future of Private Policing"***

**Les Johnston**, Centre for Criminology, University of Teeside. Wednesday 20th March 1996.

***"Computer Pornography"***

**Yaman Akdeniz**, Research Student, Centre for Criminal Justice Studies, Wednesday 8th May 1996

***"Child Witnesses"***

**Amanda Wade**, Research Student, Centre for Criminal Justice Studies, Wednesday 8th May 1996.

***"The Risk Society: Implications for Governance"***

**Martina McGuinness**, Research Student, Centre for Criminal Justice Studies, Wednesday 15th May 1996

***"The Rape Victim and Adversarial Justice"***

**Louise Ellison**, Research Student, Centre for Criminal Justice Studies, Wednesday 29th May 1996

***"Police Surgeons: Hybrid Professionals?"***

**Dakshina Gammanpila**, Research Student, Centre for Criminal Justice Studies, Wednesday 29th May 1996

***"Informal Justice in a North Belfast Community"***

**Mario Matassa**, Research Student, Centre for Criminal Justice Studies, Wednesday 5th June 1996

***"From Policing Plans to the Wider Picture: Aspects of Police Accountability"***

**Patricia Barton**, Research Student, Centre for Criminal Justice Studies, Wednesday 5th June 1996

***"Probation in Transition"***

**Ilona Pocsik**, Research Student, Centre for Criminal Justice Studies, Wednesday 19th June 1996

***"Law Commission Consultation Paper no.139, Consent in the Criminal Law"***

**Paul Eden**, Centre for Criminal Justice Studies, Tuesday, 2nd July 1996

*CENTRE FOR CRIMINAL JUSTICE STUDIES CONFERENCES*

**Indian Police Senior Command Course, August 1995:**

Funded by the British Council, a group of senior Indian police officers spent a week at the Centre for Criminal Justice Studies as part of their 10 week course, based at the West Yorkshire Police Detective Training School in Wakefield. The programme covered lectures on subjects including, the English Legal System, Terrorism and Human Rights, DNA and issues of police management. As part of the course the police officers visited the Leeds Crown Court where they were met by His Honour Judge Myerson in 1995 and His Honour Judge Walsh Q.C) and Magistrates' Courts (where they had the chance to put their questions to Mrs Hewitt, stipendiary magistrate), the Forensic Science Laboratory in Wetherby and the Forensic Pathology Department at the University of Sheffield. The programme ended with a lecture from former graduate Sir Lawrence Byford (former Chief Inspector of Constabulary) on policing and the role of the HM Inspectorate.

**Magistrates' training, 1995-96**

Peter Seago (a serving magistrate and former member of the Judicial Studies Board) organised and directed the following conferences:

Residential Conferences for magistrates at the end of their second year, November 1995, February 1996 (2 day residential)

Annual Court Clerks Conference, Crown Hotel, Scarborough, January 1996 (2 day residential)

Annual conference for Senior Magistrates at Royal Hotel Scarborough, May 1996 (two day residential).

**'Building Safer Communities', 25th March 1996**

A one day conference organised in conjunction with Leeds Safer Cities, aimed to share experience and develop networks for effective community safety across the city of Leeds. The highly successful conference was attended by about 200 local people from different public sector and voluntary agencies and private organisations. The Conference was Chaired by Greg Wilkinson, Assistant Chief Constable of West Yorkshire Police. Plenary talks were given by Beatrix Campbell (journalist and author) 'Local Communities, Local People' and Professor Ken Pease (University of Huddersfield and member of the National Crime Prevention Agency) 'Repeat Victimisation'. The University's Pro-Chancellor, Colonel Roberts welcomed delegates.

Throughout the day the following workshops were held:

- Repeat Victimisation and Burglary Reduction - West Yorkshire Police

- Racial Harassment, Current Work and Future Plans - Leeds Racial Harassment Project
- Making your Community Safer, Audits to Action - Leeds City Council and NACRO
- Involving Young People in Community Safety - NACRO
- Community Safety, Benefits to Business - NACRO and Business in the Community
- Women's Issues in Community Safety - Leeds Inter-Agency Project
- Tackling Drugs Together - Leeds Drugs Action Team

*Note:* Building on the success of this years 'Building Safer Communities' conference, the Centre will be hosting another joint conference with Leeds Safer Cities later in 1996 either on the subject of 'Victims of Crime' or 'Neighbourhood Safety'. Contact Adam Crawford at the Centre for Criminal Justice Studies or Cath Mahoney at Leeds Safer Cities, Selectapost 29, Merrion House, 110 Merrion Centre, Leeds LS2 8BR.

**A full list of forthcoming seminars can be found in Appendix 3.**

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## **APPENDIX 1**

### **CONSTITUTION OF THE CENTRE**

#### **(as amended in 1996)**

#### **Object of the Centre**

1. The object of the Centre shall be to develop, co-ordinate and pursue research and study into, and the dissemination of knowledge about, all aspects of criminal justice systems.

#### **Membership of the Centre**

2.1 Any member of the academic staff of the Department of Law may be a full member of the Centre.

2.2 Other individuals may be appointed to full membership of the Centre by the Council on the nomination of the Executive committee. Membership of the University is not a prerequisite of appointment to full membership of the Centre.

2.3 Associate members may be appointed by the Director on nomination of the Executive committee for a fixed term of up to three years. Membership of the University is not a prerequisite of appointment to associate membership of the Centre. Associate members shall normally be concerned with the pursuit of a programme of research and shall be provided with suitable facilities by the Centre. Any further rights or duties (such as in relation to teaching) shall be the subject of specific agreement.

#### **Administration of the Centre**

3.1 The Centre shall be administered by a Director, a Deputy Director and an Executive Committee.

3.2 The Director and Deputy Director, who shall be appointed by the Council on the nomination of the Head of the Department of Law after consultation with members of the Centre, shall each normally

hold office for a period of five years, and shall be eligible for immediate re-appointment.

3.3 The Director shall be responsible to the Executive Committee for the running of the Centre and the representation of its interests. The Director shall have regard to the views and recommendations of the Executive Committee and the Advisory Committee. The Director shall be assisted by a Deputy Director.

3.4 The Executive Committee shall consist of the Director and the Deputy Director together with the Head of the Department of Law, and up to six others who shall be appointed by the Director, Deputy Director and Head of the Department of Law and up to two of whom may be members of the teaching staff of the Department of Law.

3.5 The Executive Committee shall meet at least twice a year, with the Director acting as convenor. Special meetings may be held at the request of any member of the Executive Committee. All full members shall be entitled to attend meeting of the Executive Committee.

3.6 Minutes of the meetings of the Executive Committee shall be presented by the Director to the following meeting of the Department of Law.

3.7 There shall be an Advisory Committee appointed by the Executive Committee which shall formulate advice and recommendations and which shall consist of:

- (i) all members of the Executive Committee;
- (ii) up to three persons who shall be members of the teaching staff of the University of Leeds other than the Department of Law whose activities or interests have relevance to criminal justice studies;
- (iii) up to twenty persons who shall be practitioners in criminal justice systems (or other appropriate persons).

3.8 The Advisory Committee shall meet once a year, with the Director acting as convenor. Special meetings may be held at the request of the Executive Committee.

#### **Amendment to the constitution**

This constitution may be amended by the Council (or any committee acting with authority delegated by the Council) on the recommendation of the Department of Law and the Executive Committee of the Centre.

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## **APPENDIX 2**

### **MEMBERSHIP OF THE CENTRE**

#### **1. Executive Committee**

Professor Clive Walker (Director)  
Mr Adam Crawford (Deputy Director)  
Mr David Wall (Deputy Director)  
Mr Peter Seago (Chair of the Advisory Committee)  
Professor John Bell (ex officio Head of Department of Law)

#### **2. Advisory Committee**

Mr Peter Seago (Chair of the Advisory Committee)  
His Honour Judge Geoffrey Baker

Councillor Ralph Berry (W. Yorks Police Authority)  
Sir Lawrence Byford (former Chief Inspector of Constabulary)  
Mr Dickie Dickenson (Chief Crown Prosecutor)  
His Honour Judge Ian Dobkin  
Dr Douglas Duckworth (Chartered Psychologist)  
Professor Michael Green (University of Sheffield)  
Mr. Keith Hellowell (Chief Constable, West Yorkshire Police)  
Mrs Penelope Hewitt (Stipendiary Magistrate)  
Professor Edgar Jenkins (Leeds University)  
Emeritus Professor Norman Jepson  
His Honour Judge Geoffrey Kamil  
Lord Justice Paul Kennedy  
Mr Geoff Kenure (West Yorkshire Probation Service)  
Mr Peter McCormick (Solicitor)  
Miss Anne E. Mace (Chief Officer, West Yorkshire Probation Service)  
Spt. Jim Newton (Commandant, W. Yorks Police Training School)  
Rt. Hon. Lord Merlyn Rees  
Professor Carol Smart (University of Leeds)  
Mr Peter Whitehead (Clerk to Leeds Justices)  
Mr. Jo Whitty (Prison Governor)

### 3. Visiting scholar

Professor Sato, Kobe Gakuin (University), Kobe, Japan

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## APPENDIX 3

### SEMINAR PROGRAMME FOR 1996-97

#### *TERM ONE 1997/7*

*Seminars will be held in the Brian Hogan Seminar Room, Law Annexe, 21 Lyddon Terrace. For further information contact Adam Crawford (0113) 2335045*

Wednesday 30th October 1996 - 1.00 p.m.:

**In association with the North Eastern Branch of the British Society of Criminology**

*"Reflections on Recent Trends Towards the Punishment of Persistence"*

**John Pratt**, Institute of Criminology, Victoria University of Wellington,  
New Zealand.

Wednesday 20th November 1996 - 1.00 p.m.:

*"What's the Use of Committals?"*

**Clare Furniss**, Centre for Criminal Justice Studies,  
University of Leeds,

Wednesday 27th November 1997 - 1.00 p.m.:

*"The Impact of Information Technology on Legal Practice"*

**David Wall and Jennifer Johnstone**, Centre for Criminal Justice Studies, University of Leeds.

Thursday 5th December 1996 - 2.00 p.m.:

*"Firearms Theft in New Zealand: Issues for Crime and Injury Prevention"*

**Reece Walters**, Institute of Criminology, Victoria University of Wellington, New Zealand.

Wednesday 11th December 1996 - 1.00 p.m.:

*"Transnational Policing"*

**James Sheptycki**, Centre for Law and Society, University of Edinburgh,

### **TERM TWO 1996/7**

*Seminars will be held in the Brian Hogan Seminar Room, Law Annexe, 21 Lyddon Terrace, unless otherwise stated. For further information contact Adam Crawford (0113) 2335045*

Tuesday 4th February 1996 - 5.00 p.m.:

*"Debating the Status of Financial Management Reforms in the Police Service in England and Wales"*

**Chris Humphrey**, Department of Accountancy and Finance, University of Sheffield.

Tuesday 11th February 1997 - 5.30 p.m.:

*"Restorative Justice"*

**Martin Wright**, Department of Legal Studies, University of Sussex and Executive Member of Mediation UK.

Tuesday 18th February 1997 - 5.15 p.m.:

**The Anne Spencer Memorial Lecture**

*"The Treatment of Rape and Child Victims as Witnesses of Crime "*

**Helen Reeves**, National Chair, Victim Support.

Wednesday 26th February 1997 - 1.00 p.m.:

*"Situating the Fear of Crime"*

**Wendy Hollway**, Department of Psychology, University of Leeds &

**Tony Jefferson**, Department of Criminology, University of Keele.

Tuesday 4th March 1997 - 5.30 p.m.:

*"The Role and Appointment of Stipendiary Magistrates"*

**Peter Seago, Clive Walker and David Wall**, Centre for Criminal Justice Studies, University of Leeds.

Tuesday 11/18th March 1997 - 5.30 p.m.:

*"Anti-Terrorist Legislation in Britain and Ireland:*

*An Historical Perspective "*

**Professor Charles Townshend**, Department of History, University of Keele.

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## **APPENDIX 4**

### **CENTRE PAPERS**

## **Women, Politics & The Peace Process in Northern Ireland.**

*Anne Spencer Memorial Lecture, 7 November 1995*

**Angela, Hegarty,**

**Chair of the Committee on the Administration of Justice**

## ***Opening remarks of chair, Professor Clive Walker***

*It is fitting that we should discuss The Peace Process in Northern Ireland in the week beginning with the death of Itzhak Rabin. That death reminds us that peace, like conflict, carries considerable risks for those who would be its figure-heads.*

*The conflict in Northern Ireland, which has lasted for anywhere between 30 and 300 years, depending on which side does the reckoning, is likewise risky for all would-be negotiators. We may have achieved by common consent what some commentators have called a "cold peace", but that is a far cry from the full agenda of life, liberty and the pursuit of happiness to which most societies aspire. What then are the prospects for the peace-makers?*

*To attempt some enlightenment, I am delighted to introduce Angela Hegarty. Angela has a number of qualifications to bring to bear on the issue. She is a life long resident of Northern Ireland. She has qualifications in Law and Human Rights studies. She has worked for the Northern Ireland Association for the Care and Resettlement of Offenders, and the Northern Ireland Equal Opportunities Committee . And she is currently chairperson of the Committee on the Administration of Justice, as well as a lecturer at the University of Ulster.*

*Not only am I delighted to introduce Angela, but I am equally pleased to welcome you to this, the very first Anne Spencer Memorial Public Lecture. Anne Spencer was a graduate of the Faculty of Law at this University in 1974. At the time of her death from sudden illness in 1990, she was Reader in Education Management at the Further Education Staff College and an academic editor and author in the field of gender issues with reference to professions. It was with this impressive background in mind that her parents (who are in audience) established a fund in her memory, providing a scholarship for a research student and funding for this public lecture, both reflecting Anne's own focus on women's rights and interests. Hence, the particular title of the lecture today: *The Peace Process in Northern Ireland and the Role of Women.**

## **Angela Hegarty**

Thank you very much indeed for inviting me here to Leeds to give the 1995 Anne Spencer Memorial Lecture. I have been asked to speak on women, politics and the peace process in Northern Ireland. I would have to begin my remarks with a health warning. Everyone in Northern Ireland has their own viewpoint of how things are, how they were and how they ought to be and I am no different. Thus, whilst I struggle to be as objective and as balanced as I can, my view of the world I live in is coloured by my own experiences of it. I would also have to stress that in some of what I say I do not speak for the Committee on the Administration of Justice (C.A.J.), which is a non-partisan, independent civil liberties organisation which takes no view on the matter of the border.

The cease-fires in the North of Ireland are now more than a year old and yet we seem as far away from dialogue and discussion as ever. One reason for that is undoubtedly the complicated and difficult nature of the conflict in Ireland, but there are other reasons too. There is a great deal of annoyance and anger at the intransigence of the

U.K. Government, which seems incapable of being creative or flexible. This is not only so in relation to political issues as such. Despite the fact that the two cease-fires held despite dire warnings from some, there has been almost no movement by the U.K. government on the protection of human rights. Nor has there been any serious attempt by the authorities to address the growing international criticism of the fact that the emergency law regime remains in place, despite the absence of violent paramilitary activity. There is no sign that the U.K. government understands this and appreciates the centrality of many human rights issues to the conflict in Northern Ireland. One has only to review those matters which caused greatest controversy in the last year to understand how crucial those issues are: prisoners, the release of Lee Clegg, the conflict over the right to march, the continuance of so-called paramilitary punishment beatings, and perhaps most pressing of all, the need for fundamental change in policing. None of these issues has been properly addressed by the U.K. government, which continues to insist that its draconian emergency law regime is necessary.

Unfortunately the much awaited Framework Document, issued jointly by the U.K. and Irish governments, contains little in the way of proposals for protecting human rights. The Document fails to make any concrete proposal for a detailed entrenched Bill of Rights and does not propose any transformation in policing in Northern Ireland, despite the obvious and urgent need for change. I am incensed at the remarks of Sir Patrick Mayhew, reported in today's *Irish Times* that the removal of the eyesore of the security watchtower in the heart of the peaceful area of Rosemount in Derry is an example of the government's "determination to act flexibly and imaginatively to re-inforce and build on the peace". This is after a sustained campaign by the residents of the area to have the watchtower - which was never necessary - removed. The government have also announced the intention to upgrade the listening post at the base of the tower, so it is not as if the people who live in the area will be getting back their privacy.

Nor does there seem to be any understanding on the part of members of the U.K. government of just how serious the situation has become. I listened at the weekend to Mr. Major, on his way to the funeral of Yitzak Rabin, talk about the need to press on with the Peace Process in Israel and to ensure that a historic opportunity to achieve peace there was not squandered as the result of deep political intransigence. But you'll not have heard him say those things about the Peace Process on his doorstep. I wonder why? The UK government seems incapable of understanding what Seamus Heaney calls "...the command to participate actively in history" ("*Away From It All*", *Station Island*, Faber & Faber, 1984).

There is indeed a great deal of pessimism about at the moment, especially in the north of Ireland, about the future and shape of the Peace Process. One of the most striking features of this pessimism is the alienation of most people regardless of community affiliation, from that process. You hear people say how terrible it is that things can't move faster, that the log-jam can't be broken, that things seem in such disarray. But you never hear them talk about such things as if they had any influence or control over them. People seem so utterly divorced or removed from the process, as if they weren't part of it at all. This is ridiculous, when you think of it, for the Peace Process is there for the people of the north of Ireland - indeed for the people of these islands in general. I was always taught, being the nicely brought up Catholic schoolgirl that I

was, that the Church is not merely the priests and the bishops and the hierarchy, but the people. Likewise, the Peace Process is not just the property of the politicians, it belongs to every single one of us on these islands.

Now this sense of alienation from party politics is not a malaise indigenous only to the north of Ireland, but it seems more pronounced, more poignant there, because the stakes are so high. It is, literally, a life or death issue. Thus it is all the more outrageous that so many people feel no part of it. Alienation, of course, is not a new concept in the North of Ireland - a few years ago, at the time of the Anglo-Irish Agreement it was one of those buzz words or phrases which seems embedded in every news broadcast or newspaper article. The phrase "Nationalist Alienation" littered speeches and pronouncements everywhere. We were even told that the Anglo-Irish Agreement was introduced to stem this "alienation"

At the moment it is another phrase which is etched on everyone's note paper and computer screen - it is the famous "parity of esteem". This, essentially, means that the Unionist and Nationalist traditions ought to be given equal value and support. Of course, like everything else in the north of Ireland the focus is on the political divide between unionism and republicanism, between Catholic and Protestant. Those muttering the phrase parity of esteem never twig that it might have implications for more than that. It never occurs to them that there are a great many angry women, who would be happy to start with some parity of esteem in their wage packets, or in their promotion chances, or in their share of political power.

Of course, it is no accident that women are paid less than men and have fewer political representatives. The two are, undoubtedly connected. This, again, is no different in the North of Ireland than anywhere else in the world. However, what is striking about the North of Ireland is the almost complete absence of women from the inner circles of political power. Not a single one of the 17 MPs or the 3 MEPS we elect is a woman, nor ever has been. Not a single one of the major political parties is led by a woman. Not a single one of those parties' deputy leaders or spokespersons on issues such as law and order or finance is a woman. Anyone who saw the reels of television coverage of the talks about talks, the inter-party negotiations a couple of years ago or the lead up to the cease-fires will have noticed the preponderance of wee grey men in wee grey suits. In short, the important decisions about our lives are being taken by men. If there wasn't a single Catholic MP elected or a single Protestant involved in negotiations people would, rightly, be disgusted and very angry. Unlike elsewhere in these islands the subject isn't even an issue in the North of Ireland. Gender balancing ones delegations seems an alien notion to most of the political parties.

But why is this? I mean, I know plenty of very political women. I know many extremely articulate and able women. I know dozens of intelligent, competent women. Where are they all ? Well, wherever they are, they aren't in party politics. They are in other places, at the coal face of change in the North of Ireland. They are in community groups, which are invariably founded and run by women like Joyce McCartan. They are in trade unions, where women like Inez McCormack have defended thousands of low-paid health service workers. They are in anti-poverty groups, where women like Eileen Evason have campaigned on behalf of those on low incomes and on benefits. They are in women's' groups where women like Joanna McMinn have worked to help

physically and sexually abused women. They're in justice groups where women, often lawyers or mothers, sisters and daughters of victims of human rights abuses have campaigned for change in our laws and practice.

Why are these women, and so many like them not in party politics? Well we can first blame the stagnation of the political process, which for years filled so many of us with despair at the recycled arguments and the tired parading of platitudes.

Another factor has been the structure, culture and ethos of party politics, which as well as being notoriously macho in the North of Ireland is also increasingly less about issues and more about scoring points off one another. Party politics has long, in Ireland, been exclusive and petrified of dissent. "Obey the leader, he knows what he's doing", is a slogan which must be tattooed on many a party hack's brow. Party politics in Ireland is all about the maintenance of little independent fiefdoms, which tend to be run by, and for, men. This is not, I hasten to add, to imply that we all need to begin getting in touch with our female sides - you'd be surprised at the number of party leaders who are surrounded by hand-maidens, none of them women.

These things and others - such as the working times, the hours and so forth, turn women off political parties. And, despite the occasional platitude mouthed by politicians, who sometimes are overtaken by the need to appear to be doing something about the imbalance, it is extremely rare to see a woman involved at a high level in party politics.

For all of my life, and for years before that, political women in Ireland have been trapped. There is no political party which really takes us seriously or which properly represents us. Thus we have been obliged to put up with whatever party it was which most closely approximated to our general political philosophy, and to put up with being consigned to running in hopeless constituencies, canvassing in the cold and the dark and making the tea. We have been unable, despite the revolution in women's lives these past twenty years, to translate our growing economic power into political muscle. Despite the fact that many of us run community groups, voluntary agencies, trade unions, businesses, schools, hospitals and even human rights organisations, we are completely absent from the political process.

The reasons for this, as we have seen, are diverse. One friend of mine recently observed that "we're too busy out doing everything else", which may well be true. Given the appalling stagnation of the political process for so many years, many women chose to spend what time they had in effecting real change, at the coal face of peoples' lives. Although sometimes I think that's an excuse - that we were doing other things - Eavan Boland, in her poem, "It's A Woman's World" explores this (*Selected Poems*, Carcanet Press, 1989):

"Our way of life  
has hardly changed  
since a wheel first whetted a knife.

Maybe a flame burns more greedily and wheels are steadier. but we're the same:

we milestone

our lives  
with oversights,  
living by the lights

of the loaf left by the cash register, the washing powder paid for and wrapped,  
the wash left wet:

like most historic peoples  
we are defined  
by what we forget

and what we will never be:

star~gazers,  
fire-eaters.  
It's our alibi for all time:

as far as history goes we were never on the scene of the crime.

head  
When the king's  
gored its basket,  
grim harvest,  
we were gristing bread  
or getting the recipe  
for a good soup"

In the north there have been other factors. The issue of the border has historically divided the women's movement. This division has had, I think, a lot to do with dissipating the power of what might otherwise have been a highly effective lobby. I think Nell McCafferty has the right of it when she says: "Between the politics of the womb and the politics of the border, we are caught between a rock and a hard place." (*Goodnight Sisters*, Attic Press, 1988)

Of course all of this takes place in the context of an extremely partisan view of the notion of equality in the North of Ireland. When most politicians talk about "discrimination" they are referring only to discrimination on the grounds of religious belief or political opinion. This is perhaps not unusual given the nature of the conflict, but is appalling that all the other inequalities which exist in Northern Ireland - such as those suffered by ethnic minorities, who still have no protection against discrimination - simply don't figure in this concept of equality. I'll give you an example. One of the most repeated statistics in Northern Ireland is that Catholics were, until recently, two and a half times more likely to be unemployed than Protestants. The Fair Employment legislation has been credited with reducing this disparity so that the statistic now quoted is that Catholics are now 2.2 times more likely to be unemployed. In fact this statistic is for male unemployment only. What is remarkable and has not been much commented upon is the fact that the difference in employment rates between catholic and Protestant females is increasing. Figures from the 1991 census show that Catholic males are now 2.2 times more likely to be unemployed than Protestant males and that Catholic females are now 1.8 times more

likely to be unemployed (previously 1.5 times) than Protestant females (Gallagher, AM., Osborne, RD., Cormack, R.J., *Fair Shares? Employment Unemployment and Economic Status*, FEC, Belfast, 1994). The fact that the male unemployment differential has embedded itself so firmly in the public consciousness and is one of the measures by which the effectiveness of the Fair Employment legislation is assessed is an indication of just how much the equality agenda is driven by concerns about male status and unemployment, as well as by political pressure exerted upon governments. As the authors of recently published research on economic differences between Catholic and Protestant women note, "the male unemployment differential has become and remains centre stage" (Davies, C., Heaton, N., Robinson, G., and McWilliams, M., *A Matter of Small Importance? Catholic and Protestant Women in the Northern Ireland Labour Market*, EOC (Northern Ireland), 1995, p.iii.)

An equally startling although less well known fact is that almost a quarter of a century after the introduction of the equality legislation women still earn only 80.3% of what men earn (*Where do women figure?*, EOC (Northern Ireland), 1994). Yet despite this and the increasing disparity between Catholic and Protestant females no review of the Equal Pay or Sex Discrimination legislation has been proposed by government. Unless and until a more holistic approach is taken to both an examination of the causes and effects of discrimination and to the legal methods of prevention and redress, inequality will persist. A less fragmented approach to the whole question of differences between men and women and Protestants and Catholics is needed"

How do we change this situation?

We must first redefine politics. Politics isn't what the wee grey men in the wee grey suits decide it is. It isn't decommissioning" or "no Dublin Rule". It's about jobs and houses and peoples' lives. It's about making peoples' lives a whole lot better. I think women understand that only too well, not least because we, generally, have a much tougher lot. Now, I hope you aren't left with the impression that the border and how we are governed in Ireland are unimportant, or that women don't have very firm views on the matter. Nothing, to tell you the truth, annoys me more than this "don't mention the war" mind-set which you sometimes find in the North of Ireland. There are even political parties which have made a career out of it.

What we need to do, effectively, is to seize the agenda. We need to discuss the national question alongside education and houses and health care, not instead of it. We need to end the partition of the issues, where men generally argued about the border and women worried about where the money was coming from to pay for the dinner. We need to deghettoise the issues which concern women and place them firmly at the heart of the political agenda. Now one way in which that can be done is, perhaps, to have more women engaged in the political process. But it is not enough to have women in positions of power. Margaret Thatcher demonstrated that.

For this reason, and others, it is not my view that you can achieve real change by requiring a quota of women in political parties. I know this is a notion which has found some currency with British political parties, but in my opinion it is a short term, facile kind of solution which devotes too much attention to results. Now results are one, rather crude, measure you can use to judge a society. However I can think of a number of institutions who have become so fixated with the notion of having the

requisite numbers of women or whatever in posts that they have become completely oblivious to the deeply sexist and anti-female environments in which women have to work. I ran into the Chief Personnel Officer of a large public institution the other day, and he was bemoaning the fact that there seemed to be a large increase in the numbers of complaints of sexual harassment. "Must be the full moon", he quipped. This gives you an idea of the kind of people who are charged with safeguarding equality.

I would also argue strongly for a less divisive form of politics. By this I do not mean that we all say nice things about each other and form support groups. What I mean is that we engage less in rigid partisan politics and much more in coalition politics. We may not share the same views on every single thing, but there may well be one, two or even half a dozen things on which we can work together. It is this form of practical politics which women have been so good at in the North of Ireland: you will often find women who might be at loggerheads over the issue of the border able to put those differences aside for the moment and work around a planning or a development issue. It is what Jesse Jackson calls a "Rainbow Coalition", and the C.A.J. has been very good at it. For fifteen years now the C.A.J. has been a unique, safe place for people in Northern Ireland, regardless of their political or community affiliation, to come together and organise around human rights. In a society as bitterly divided as Northern Ireland where justice issues have historically been sectarianised, this is no mean feat. This in itself has made us a powerful and very effective voice in defence of human rights, particularly coupled with our firm opposition to violence. It came about because we were able, despite our firmly held views on other matters, to focus on a particular range of issues on which we could agree and to identify the matters on which we couldn't and, instead of descending into interminable internal wrangles over them, let them alone. We never allowed the C.A.J. to become the hobby-horse for party politicians or partisans from either side of the sectarian divide. It is because of this hard-won and fiercely guarded independence that we have been able to become such a respected and powerful voice on behalf of human rights in Northern Ireland. In my view it is no accident that the C.A.J.'s Executive Committee is three-quarters female, and its Chair and Vice-Chair are, for the third year in a row, both women.

I believe it is possible to be a coalition politician without sacrificing principles for political power. Perhaps the most powerful example we have yet had is the President, Mrs. Robinson, who this month celebrates five years in that office. Fintan O'Toole, writing in this month's *Fortnight* magazine observes ("The President's Progress", *Fortnight*, no 344 (Nov. 1995), at p 18): "No politician in the history of the state - arguably none since Charles Stewart Parnell at his height in the 1880s - has commanded such wide respect..."

Her rigorous independence of mind, usually a recipe for political disaster, has allowed her to give a real meaning to the notion of a figurehead "above politics". She has been, as President, above politics, not in the bland, monarchical sense of someone who stands aside from all controversial - and therefore all important - matters, but in the much more potent sense of someone who has transcended politics. To transcend something you have to be deeply involved in it in the first place. What Mary Robinson has managed to do is to give politics a meaning beyond the daily compromise and power-play of party contest."<sup>8</sup>

In conclusion, I am firmly convinced that if we transform the political process, many

more women will become involved in it. But we cannot expect more women to become involved whilst the situation remains as it is. We will never engage women and the right kind of women at that, whilst party politics remains the stagnant turf war it has become. It is my firm view that the increased involvement of women in the broad political process will transform politics in Ireland North and South. And that, after all, is what we desperately need. But I also believe that we can no longer wait around and hope that this will happen. Experience and sociology teach us that we cannot hope for this. In the end it is up to us, to do what Seamus Heaney describes, and to actively participate in history. No one else can do it for us.

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## **MAGISTRATES COURTS AND SOCIO-LEGAL STUDIES<sup>1</sup>**

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It is hoped that the objectives of this paper are set out fairly clearly in the Appendix. The first is to assess the utility of studies located in the Magistrates' Courts as a heuristic device in the development of socio-legal theory. As will be seen, this task was undertaken, in part, through a particular brand of empirical study. The second objective, which emerged as a necessary corollary of the first, is to reappraise the relationships among law, socio-legal studies and jurisprudence.

The section of the Appendix entitled "A brief history", which is, in truth, an *extremely* brief history, has been set out in the possibly vain hope that readers might wish to follow up the issues raised. The texts to which I refer, namely Carlen (1976), McBarnet (1981), Parker, Sumner and Jarvis (1989), Brown (1991), are really texts that one should not be without when working in this field. They give pointers as to what is on offer, in terms of knowledge, to the researcher in the Magistrates' Courts, and guidance as to how the researcher might go about acquiring that knowledge. Issues raised, in no particular order, are, for example:

- the multiplicity of perspectives in the magistrates' courts, that is to say, the great number of participants involved in the various court processes, each having their own agenda, which may bring them into conflict with other users;
- the manner in which *power* is exercised in the magistrates' courts, and whether such exercise is linked with any sort of politico-legal hegemony;
- the possibility of discerning the existence of a particular magisterial *ideology*;
- the manner in which certain kinds of information contribute to magistrates' decision-making.

It might well be questioned whether, owing to this relative superabundance of knowledge, there is really any sustainable research opening in the magistrates courts which would not involve retreading well-trodden ground. However, I feel justified addressing the issues in this paper for two main reasons. The first is grounded in theory: none of the texts mentioned above has interrogated the possibility of using

post-modern techniques of analysis in the investigation of the magistrates' courts, whether this be out of choice, or on account of simply predating the development of such techniques. The second is more pragmatic: the particular texts dealing with magistrates' use of information are geared primarily towards an analysis of the sentencing process, and are thus located in the somewhat rarefied conceptual arena of decision-making. I was interested in the public, practical world of the lawyer seeking to bargain with the magistrates in respect of the most basic question, namely, the classification of the defendant as guilty or innocent.

I chose to analyse contested trials not only due to their inherent interest-value to me, but also for two further reasons. First, a popular conception of the law in action is that of the trial process, the resolution of fundamental conflict through the passing of judgment on argument. Secondly, I personally felt that the *power* of law was manifested particularly acutely in such situations of conflict. At the levels of theory and politics, I considered it fundamental to construct or contribute to the construction of an epistemological framework which was potentially liberating. I also wished my material to be of a challenging nature, especially to lawyers, whose discourse, while regularly recognised as powerful and, equally regularly the subject of putative subversion, had remained relatively unassailed, as I understood it, through the problematisation of other discourses, most notably politics, impacting on law. Over a period of 5 months I observed 53 contested trials, and conducted interviews of varying degrees of structure and impromptitude with protagonists in the magisterial process: advocates; clerks; ushers; magistrates; and defendants. Understandably, the last group, while physically very accessible, were in practical terms considered by me to be virtually off-limits, on account of the statistical reality that at the time I would have chosen to speak with them, it was highly likely that they would have been the subject of a conviction within the previous half-hour. I considered it somewhat impolitic, and not a little overambitious, to expect them to have any time for the furtherance of my study. Whether these fears were in fact founded will be revealed in a second round of interviews to be conducted over the next couple of months.

Through the interviews I had hoped to come to understand, or at least, gain some kind of insight into three main issues. First, I wanted to find out why these cases reached this final stage of conflict; I was interested in why these particular defendants pleaded not guilty in the face of alarming statistical odds, namely that approximately 1% of defendants processed in the magistrates' courts can expect an acquittal. Secondly, I wished to investigate the various protagonists' perceptions of their particular roles in the court-world. Thirdly, I wished to investigate the qualitative characteristics of advocates' representations of and on behalf of their clients, that is to say, the manner in which lawyers present not guilty pleas, the issues that they consider to carry weight, to be *important*, in the magistrates' court.

In respect of my first goal, I have begun to develop a tentative typology of defendants, based on an assessment of the apparent reasons for their not guilty plea, which by no means aspires to being exhaustive (see also Vennard (1981)). I came across what I have termed belligerent defendants, who, though aware of their legally, and possibly morally untenable position, were determined to have their day in court, to play the system, and arguably to cost it as much money as possible. Other defendants seemed to possess a belief in the moral rectitude of their actions, despite their being unlawful: I observed a case in which one car-driver who alleged that another had cut him up,

spent the next stretch of road striking the wing of the latter's vehicle with a hammer. When questioned on this, his response was not to suggest that these events had not taken place, but rather that he had performed the actions in a question in a state of anger. Needless to say, his not guilty plea was given short shrift. A third category of defendant was the one who had been advised on a technical point capable of giving rise to an acquittal, such that guilt or innocence became an almost secondary issue. Such cases frequently involved a defendant in respect of whom a breath-alcohol test had been incorrectly administered. It also became apparent, and doubtless this is not exclusive to the magistrates' court, that there are particular charges to which it is politic to plead not guilty. Unfortunately, these are often particularly sensitive cases, involving behaviours as diverse as gang fighting and domestic violence. In any situation in which the possibility of capitulation of some sort by the opposition is likely, whether this be as a result of non-attendance of witnesses, or through prosecution witness testimony given in circumstances in which rigorous and aggressive cross-examination is or becomes a possibility, a not guilty plea can be expected.

In respect of my second and third goals outlined two paragraphs previously, it is not my intention in this paper to present detailed research findings. I do not propose at this stage, if indeed at any stage, to draw causal, or pseudo-causal links among the eventual finding of guilt or otherwise, and the manner in which an advocate represents a client - the features of that client which are focused upon through that representation, and those which are as it were, glossed over, and the eventual finding of guilt or otherwise. It is suggested at this stage that the search for causality is rather misplaced, an issue which will be returned to in due course. For the present purposes it suffices to note that I observed the courts as being a site of conflict at a variety of levels. These are noted on in the Appendix under the sub-heading "Practical and theoretical limitations", which denotes both problematic areas in the literature on magistrates' courts as a whole, and, more particularly, problems potentially besetting my own research project and findings. That there was what I have termed a multiplicity of perspectives is apparent even to the uninitiated. To point to the disparate proliferation of staff, performing a vast array of tasks, towards the satisfaction of various agendas bureaucratic, political and even legal, is to tell half the story. There are a variety of court users whose employment might not be based solely within the court precincts: probation officers; press members and researchers to name three. Taken together with the more obvious categories of "users", that is to say, advocates, defendants and witnesses, it becomes clear that the sites of potential perspectival conflict are numerous. One can also observe conflicts at various characteristic and levels of these participants other than their "user status". Preliminary research findings show, perhaps unsurprisingly, that class, gender and ethnicity are considered valid positions of struggle. To take a random, though hopefully illustrative example, it became clear as the period of observation progressed that an advocate representing a defendant who was unemployed would be highly unlikely raise the issue of his or her client's unemployment until, as would more than likely be the case, the client was found guilty, and mitigation or an assessment of means took place. On the other hand, a defendant's being employed was likely to be used, seemingly, not merely to set the scene of the defence case, but as an ideologised representation of stability, diligence and worthiness. In a somewhat different vein, it was also possible to observe a bureaucratic and theoretical conflict at the level of the court itself. Is the court a self-contained bureaucracy, capable of administering justice

in a manner that can fairly be described as autonomous, or is it truer to say that it is part of a far greater whole, ultimately falling to be considered a (small) twig on the tree of the state?

In the light of these multifarious exhibitions of conflict, I was struck by the complexity of, and the potentially great difficulty in, theorising what I had observed. These problems are addressed under the Appendix subheading "How to progress". The most striking theoretical conclusion that I felt able to draw was that a search for a single truth, for what is termed in the Appendix "monocausal totalisation" would have to be abandoned. Indeed, as the many different court roles were acted out, I was struck by what appeared to be the fragmentary quality of the truth(s) to which I was being exposed. The magistrates' court took on a decidedly post-modern aura. However, in simple terms, I did not think that this was good enough. For me, postmodernism was something very nihilistic, something of itself incapable of generating a prescriptive agenda, which I had and have always thought to be a fundamental part of the research process. Postmodernism does half the job. By revelling in binarism and the recognition of opposites, it purports to open up all possibilities. However, the possibilities are opened up in a culturally relativistic vacuum in which power can merely be exercised as has always been the case. Those who are oppressed before, will continue to be oppressed after. Postmodernism is at one level depoliticised, in that anything is viable. At another level it is quasi-political, arguably even pseudo-political, in that it claims to offer emancipation, without providing any means whereby that objective can be achieved. Some would say (see for example, Callinicos (1989)) that it's descent/ascent into relativism constitutes little more than an abdication of responsibility for current relationships of power, and that this abdication is necessarily, of itself, highly political, though arguably not in the sense that the majority of postmodernists apparently perceive themselves. On the other hand, what postmodernism does have in its favour is its recognition of multiplicity. This is a feat never satisfactorily achieved by more essentialistic approaches, particularly cruder interpretations of Marxism and feminism, whereby everything is a function of class and gender respectively. Such single-issue theories have at times obscured the complexity inherent in a multiply-perspectived world. The development of "appropriate" "legal" norms, which, whether we like it or not, and whether we see ourselves as post-modern or not, is a part of our collection of intellectual aspirations. That development must proceed in a manner that is both credible and accessible.

In efforts to theorise our reality of which law is a part, we are confronted by two main existing strands of thought. On the one hand, structural approaches, at times essentialist or single-issue-based, and focusing on varieties of cause and effect, while on the other hand, the post-modern approach eschews coherence, delighting in diversity, and shunning causal interpretation. Neither has generated theory which is both credible and harnessable for political/legal change. Between these two rather polarised types of thought lies something of a conceptual vacuum. Attempting to bridge the gap between them is futile, as they address fundamentally different questions. However, it may be possible still to theorise this gap in a manner that, while not ideal, may amount to progress.

The working title of this purported retheorisation is "relationalism". It is predicated, as are all theories, on a variety of assumptions, epistemological and otherwise. The most

notable of these assumptions is that the legal experience is an aspect of the political experience. By saying this I am not trying to advocate a simplistic "law reduces to politics" approach. The way the legal discourse is formed, promulgated and policed; the existence of a legal "profession" with its own substantive and procedural rules; these lend credibility to "law" having some kind of autonomy. However, the *agents* of law, those who are responsible for its administration and application, can never be divorced from their political context. Thus, law is inextricably bound to politics. This interrelationship has particular potency for those *in respect of whom* law is being applied. The "outsider", that is to say the defendant, complainant or witness, on going into court, experiences something *profoundly* political. If indeed the legal experience is an aspect of a greater political whole, then it is both logical and necessary that legal theory must be, for want of a slightly less clumsy word, politicisable. Legal theory underpins the legal practice, which in turn reflects various political practices. If legal theory contributes to the maintenance of a state of affairs - that is to say, if the prevailing perception of law contributes to the maintenance of that state of affairs, then theory must also be capable of being a catalyst of change. A paper on action research was delivered at this conference, and I am in accordance with its sentiments. It behoves us as researchers to at least attempt to confer some sort of benefit that extends beyond the confines of Faculty. The question is of course how to develop *a theory involving law*, let us call it this rather than legal theory, which has a realistic capacity to empower, and to produce change where "appropriate". It seems to me that the best, or at least, the least worst, way forward is to build theory from *experiences*. It is thus imperative, for me, to interrogate my observations of the treatment of various groups in Birmingham Magistrates' Court, be they young Asian men, first generation Irish men, young working single mothers, juvenile multiple offenders, and to seek to establish how these groups themselves experience their treatment. In a similar vein, papers have been delivered here, dealing with feminist legal theory, and the legal status of travellers, which have highlighted areas of *distinct* legal need. Such needs are, I would suggest, identified and appraised through the experiences of those concerned. One hopes that through this kind of investigation, "knowledge" can be acquired, and an epistemological framework developed, with this capacity to empower. Such frameworks would constitute what I am going to call, having appropriated a little theological terminology, *liberation epistemologies*.

Needless to say, if one is to advocate what are essentially multiple theories, one must address the question of whether one can truly be said to be theorising at all, or whether one is merely falling into a somewhat post-modern anti-theoretical cauldron in which all forms of generalistic conceptualisation dissolve, leaving us merely with atomistic results, incapable of informing beyond themselves (see for example, Bierstedt (1977)).

At this relatively early stage, and I should stress that I have only been involved in the project for two and a half years, I would say this. At the risk of aggrandising my work unduly, the relationalist project almost demands that we start again in our quest for the nature of law. The first step is to *map* relationships in which law is involved: my relationship as a researcher with Birmingham Magistrates' Court; the relationship between first generation Irish men as defendants and the magistrates' courts; the relationship between unemployed white teenagers and the magistrates' courts; the relationship between the researcher and their Faculty; the relationship between the Faculty and the local profession; and so on, and so on. By *mapping* in this manner, we

recognise the complexity of the spheres infiltrated by law. The next stage is to theorise the relationships at their various levels. Crucially, one would hope to avoid the type of postmodernistic nihilism discussed earlier by acknowledging the normative and prescriptive factors that pervade our work anyway, and by critically developing criteria both for ascertaining what makes particular normative conclusions more favourable than others, and for ascertaining what qualities as it were, make for good research into the establishment of these preferred normative conclusions. It is a crucial part of our job, I have suggested, that we, as researchers, press for informed change.

I state in the Appendix that I perceive the magistrates' courts to be a partial metaphor for the law world. The complexity and multiplicity that I was able to observe pervades law at a variety of levels, while frequently managing to remain unacknowledged. Once this multiplicity *is* acknowledged, the question of what I have termed "disciplinary primacy" arises, that is to say, is it possible to isolate *a* discipline of which law is an aspect? One can, at this stage, only begin to answer by proffering examples: were I specifically discussing contract, I could imagine myself addressing issues of economics, politics, the nature of capital, and yes, a dash of law. Were I discussing crime, my agenda would be partially dictated by questions of philosophy and behavioural science. It is imperative that this kind of plurality be recognised. The relationalist project must at some stage concern itself with what amounts to a task of incremental reconstruction of "the law", using the abundance of related disciplines, law itself, and experiences of these phenomena as building blocks in this process.

If law is to be de-élitised in this kind of manner, it seems appropriate that the roots of its ideological heredity, namely the law degree, must be addressed. If an interdisciplinary approach to law is to be attained, the degree must reflect the fragmented nature of law and the need to acknowledge and work towards appropriate norms. The current state of relationships among law, socio-legal studies, and jurisprudence is not facilitating the achievement of these aims. Academically, socio-legal studies and jurisprudence remain, on the whole, mere subsets of law. We find them as final year option subjects, the former at times apparently thrown in almost as a sop to interdisciplinarity, to keep the sociologists happy, and the latter often doing little more than to aggrandise the achievements of theorists whose work, though doubtless both erudite and fundamental, was concerned primarily with explaining the formation and creation of rules, rather than with their content. This placement of socio-legal studies and jurisprudence is political (with a small "p" for present purposes, though it is not inconceivable that a capital might be appropriate), and currently serves to sustain the legal disciplinary hegemony.

I have suggested that relationalism may provide a more sustainable methodological and theoretical advancement than has thus far been suggested. One hopes that its deployment will expose vividly the problematic nature of relationships in and around legal discourse and practice. It may be that, when all is said and done, a fundamental product of relationalist inquiry is a reinterrogation of notions of power, in which case one might well ask whether it is really possible to really add to the work of Foucault. However, I have sought to put forward the view that relationalism, rather than being an exercise in "descriptive" categorisation, may be(come) a truly harnessable conjoining of theory and method. Nobody need assume, however, that this enterprise can be anything other than problematic. Nor should it be thought that its goals can be

met instantly. Relationalism demands a constant reappraisal of its methods and normative goals. It is very much an ongoing project.

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## **APPENDIX: MAGISTRATES COURTS AND SOCIOLEGAL STUDIES**

Objectives:

To assess the utility of the Magistrates' Courts as a heuristic device in the development of sociolegal theory.

To reappraise the relationships among law, sociolegal studies and jurisprudence.

### **A brief history:**

Classics: Carlen (1976) *Magistrates' Justice*

McBarnet (1981) *Magistrates' Courts and the Ideology of Justice*

More recent works: Brown (1991) *Magistrates at work*

Parker et al (1989) *Unmasking the Magistrates*

### **Practical and theoretical limitations:**

Multiplicity of perspectives; class; gender; ethnicity; micro and macro court world.

**How to progress:**

Abandon monocausal totalisation while preventing depoliticisation; multiple perspectives veer towards the postmodern; quasipolitical nonutile theory; essentialising obscures perspectival complexity.

**Relationalism:**

Legal experience as aspect of political experience;

Politicisability(!) of legal theory?;

Theory built on experience(s);

Multiple theories?

Starting again;

Mapping relationships involving law.

Magistrates' Courts as partial metaphor for law world; disciplinary primacy within new theory?; appraise and reappraise relationships among law, sociolegal studies and jurisprudence.

Relationalism as ongoing project.

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This is a written version of a paper presented to the Socio-legal Studies Association Postgraduate Conference, 4-6 January 1996, College of Ripon and York St. John. The paper was delivered with the aid of a handout (see Appendix), and in addition, for myself, a set of vaguely scripted prompt cards. It should be noted that this text has been put together ex post facto, and does not represent a pre-written script.

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