



## ISSUE 3: NOVEMBER 2008 MESSAGE FROM THE UCLSHRP PRESIDENT

Here at the UCL Student Human Rights Programme there is good reason to be excited; with over 100 new student members from a range of UCL Departments, we are hotly pursuing our objective of fostering a human rights culture within UCL and beyond.

Our established projects have borne marvellous fruit, and the Programme's website - UCLSHRP Live - is simmering on the hob ready to be revealed in early November. Contents include The Exchange, an online human rights discussion forum, a multimedia archive of all of our activities and the Live! editions of both The UCLSHRP Bulletin and The UCL Human Rights Review.

New projects initiated by students in autumn 2008 are simply stunning, including the UCL ECHR Moot where the finals will be held in front of Judges Rosakis, Spielman and Tulkens in the Grand Chamber of the European Court of Human Rights; and the interdisciplinary Rights through Research 2009 project, which is under construction with a team of students establishing a fresh approach to human rights. We hope these initiatives take us all one step closer to a human rights culture. *Jonathan Butterworth*

## EVENTS

### **The Workshop on 'How to campaign for Human Rights' (London Guantanamo Campaign and Reprieve).**

Thursday 30 October, at 6.30pm in Seminar Room 1 at Bentham House, the Law Faculty

### **The Panel on Human Rights of UK Refugees and Asylum Seekers**

Monday 10th November 6.30pm Gustave Tuck Lecture Theatre

### **Workshop: How to perform a Third Party Intervention (JUSTICE)**

Tuesday 11th November 6.30pm Bentham House, Law Faculty, Venue TBC

## Human Rights News

### **Lords reject proposal on extended detention without charge**

The government's proposed bill to extend the time police can hold terror suspects without charge from 28 days to 42 days, was overwhelmingly defeated in the House of Lords, by 309 votes to 118. This is a major setback for Prime Minister Gordon Brown with many labour peers voting against the bill, after the Labour government had only managed to get the bill through the Commons by 9 votes.

Opposition to the proposed bill has been widespread, even among counter terrorism officials. Two former heads of MI5, Stella Remington and Eliza Mannigham, condemned the bill as "wrong in principle, unneeded in practice and a move that would alienate the Muslim community". Benjamin Ward, associate Europe and Central Asia director at Human Rights Watch, warns that 'the problems with this bill don't begin and end with 42 days'. A further provision in the 2008 Bill would broaden the definition of 'terrorism' and effectively cover any 'acts or threats designed to advance a 'racial' cause'. This means a wider section of the public are vulnerable to committing criminal offences which may not adversely harm anyone.

### **Passports will be needed to buy mobile phones**

The government has started making plans for a nationwide database that will hold the names of all owners of the 72 million mobile phones in the UK. In the scheme everyone who wishes to buy a mobile phone will have to present their passport or another official document at the point of purchase so that they could be placed on the register.

The government has already been in talks with Vodafone and other major phone companies about creating the register – which will contain all mobile owners' names and addresses.

The move is aimed at monitoring those 40 million who own prepaid mobiles, where names and credit card details are not necessary when purchasing. GCHQ has already received £1 billion to fund this project.

### **United States: Bush Signs Law on Child Soldiers**

US President George W Bush has signed a law that will allow the prosecution of military leaders who have recruited child soldiers in the past. The move could see the arrest of dozens of leaders of forces that have recruited children in over 20 different conflicts. The Child Soldiers Accountability Act makes it a federal crime to recruit knowingly or to use soldiers under the age of 15 and permits the United States to prosecute any individual on US soil for the offence, even if the children were recruited or served as soldiers outside the United States. The law allows for imprisonment for up to 20 years, or if the recruitment led to the child's death, then life in prison.

### **China: Olympics-Related Media Freedoms Should Not Expire**

Human Rights Watch has said that the relaxed foreign media regulations should also be extended without limit to Chinese journalists. The temporary regulations were adopted as part of the Chinese government's commitments to improve its human rights record, a key aspect of its 2001 bid to win the 2008 Summer Olympics.

Subsequently the Chinese government has said that these regulations will indeed be extended - but only to foreign reporters. Information Minister Cai Wu said, "If practice shows that the regulation will help the international community to know China better, then it is a good policy in accordance with the country's reforms and opening up". The new media laws are such that foreign reporters no longer need to apply to the foreign ministry for permits.

## Cases: Recent Human Rights Developments in the Courts

**R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs House of Lords.**

In disagreement with the Court of Appeal, the House of Lords by a 3 to 2 majority (Lord Bingham and Lord Mance dissenting) upheld Her Majesty's Government's decision not to allow resettlement of the Chagos Islands by their previous inhabitants, enforced through two Orders in Council. The islanders had been compulsorily removed in 1971 so that the islands would be used as a US military base. The majority found no constitutional right to one's abode and thereby no violation of any fundamental constitutional principle by the executive decision. Moreover, the majority held that it was not for the court to assess whether the Crown, as legislator for the particular non-self-governing colonial territories, exercised its powers for their stated purpose, namely for the "peace, order and good government" of the territories. Rather the majority considered the wording to confer unrestricted authority to the Crown rather than place limits on its legislative capabilities. Lastly, the majority found that a prior decision not to challenge an earlier successful application for judicial review by the islanders did not give rise to a legitimate expectation because there had been no clear and unambiguous promise to allow resettlement. Hence, no constitutional right or legitimate expectation was found to be breached by Her Majesty's government.

**Secretary of State for the Home Department v F Court of Appeal (Civil Division).**

Three men under non-derogating control orders based in significant part on closed material appealed against the orders on Art.6 grounds alleging that there had been insufficient disclosure of the material relied upon. The controlees, whilst accepting that they were not entitled to full details of both the case against them and the evidence in support of it due to national security reasons, submitted that Art.6 (right to

a fair trial) conferred on the controlee entitlement to an irreducible minimum of information. The Secretary of State contended that where information could not be disclosed, the provision of a special advocate who could deploy the material in the way most favourable to the controlee enhanced the fairness of the procedure so that there was no room for the principle that an irreducible minimum of information had always to be given. The majority, Sedley LJ dissenting, considered whether, taken as a whole, the hearing was fundamentally unfair in the sense that there was significant injustice to the controlee. There was no principle of an irreducible minimum of allegation or evidence. No unfairness was found in this case as the limited disclosure was considered to be countenanced by the presence of a special advocate. The court granted permission to appeal to the House of Lords

**R (C) v Secretary of State for Justice Court of Appeal (Civil Division).**

The appellant appealed against a decision refusing to quash the Secure Training Centre (Amendment) Rules 2007. The respondent secretary of state had sought to amend the Rules so as to permit physical restraint of young persons at such centres where restraint was thought to be necessary for the purposes of ensuring good order and discipline. The Court of Appeal held that the failure to conduct a racial discrimination enquiry into the use of physical restraint and into its effects on children was a significant procedural defect. The rule of law as well as the proper administration of race relations required the amendments to be quashed. Moreover, a system of physical control in care was found to engage Art.3 (freedom from torture and inhuman or degrading treatment) by its very nature, and therefore there was a prima facie breach or at least a significant risk of breach of Article 3. Lastly, the Secretary of State could not establish that such system was necessary in a democratic society and it was thus a violation of Article 8 (right to privacy).

**INTERVIEW****Dr Eric Metcalfe**  
JUSTICE

I'm the director of Human Rights Policy at JUSTICE. I spend a lot of time preparing briefings on legislation, briefing members of the House

of Commons or the House of Lords. We also respond to a lot of draft legislation, Green Papers and White Papers, proposals that are put forward by various government departments and other public bodies.

We're a human rights and law reform organisation. Our chief focus is whether the law is compatible with fundamental rights. JUSTICE's membership is made up entirely of lawyers - barristers and solicitors, legal academics, judges and law students. So we aim to provide a legal and policy analysis – not just compatibility with the European Convention, but also other international instruments like the International Covenants on Civil and Political Rights, and Economic, Social and Cultural rights.

We work across a wide range of areas. Immigration law is an example. We're giving oral evidence to the Home Affairs Committee on the draft Immigration and Citizenship Bill at the end of October. Unfortunately, it not only consolidates the existing law, but introduces several problematic measures of its own. For example, it replaces deportation and removal with a single scheme of expulsion orders, putting people who have breached their immigration permission in a trivial way – say, failure to notify a change of address – on par with people who have been convicted of serious criminal offences.

The Justice Student Human Rights Network has an event coming up on the 15th of November at BPP Law School in Holborn, where myself, our director Roger Smith, and Shaheen Rahman, a human rights barrister, will be giving a morning seminar focusing on human rights in the UK.

**The full version of this interview is available at [www.uclshrp.com/bulletin](http://www.uclshrp.com/bulletin)**