



The Odysseus Trust
Report on Activities from
January 2010 to January 2011

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Introduction

The Odysseus Trust ('the Trust') is a non-profit company limited by guarantee, which seeks to promote good governance and the effective protection of human rights. This report covers the Trust's main activities from January 2010 to January 2011.

The Trust is directed by Lord Lester of Herne Hill QC. The Parliamentary Legal Officers from January 2010 to January 2011 were Emily Gray and Joanna Dawson. The Trust continues to benefit greatly from the services of the Office Manager, Evie Jamieson and the support provided by the Research Officer, Caroline Baker.

Our major legislative projects during 2010 were the Equality Act and Lord Lester's Defamation Bill. During the first half of 2010, the Trust continued its work on the Equality Bill which was introduced to the House of Commons in April 2009. Lord Lester led the front bench for the Liberal Democrats on the Bill in the House of Lords. Lord Lester and the Parliamentary Legal Officers worked closely with the Leader of the House of Lords, Government Ministers and officials from the Government Equalities Office to ensure that crucial amendments and provisions were included. The Bill became law in April 2010.

The Defamation Bill was introduced by Lord Lester in the House of Lords on 26 May 2010. The aim of the Bill was to update and rebalance libel law in the UK, which lacks certainty and too often threatens freedom of speech. In response to the Second Reading debate, the Government committed to introducing its own Defamation Bill, based on Lord Lester's Bill.

Following the election of the Coalition Government in May 2010, Lord Lester and the Trust have worked closely with the Coalition to ensure that human rights and equality are priorities for the new Government.

Throughout 2010, the Trust conducted several parliamentary campaigns to strengthen human rights protection in various areas, both building on Lord Lester's work on the Joint Committee on Human Rights and on its own initiative. Lord Lester gave a lecture on 'Multiculturalism and Free Speech' at Suzhou University Law School in May, and authored a chapter of *The Changing Constitution* (7th edn), Jowell and Oliver, entitled 'Human Rights and the British Constitution', OUP (forthcoming). The Trust assisted in the research and preparation of this lecture and the chapter. Our website (www.odysseustrust.org) continues to attract much interest from the public, who are able to access our Bills, recent debates, consultation responses and lectures given by Lord Lester.

Major Projects

The Equality Act

The Equality Act (the Act) passed into law in April 2010, following many years of determined work by Lord Lester and the Trust. The main provisions of the Act came into force on 1st October 2010. The Act simplifies and strengthens the UK's anti-discrimination law, and is designed to be accessible. The Act brings together nine disparate pieces of legislation covering gender, race, disability, religion or belief, sexual orientation. It clarifies and extends the concepts of discrimination, harassment and victimisation and applies them across the nine protected characteristics of age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Act provides for equal treatment without direct or indirect discrimination in employment, housing, education and the provision of public services. It also gives new protection to the fundamental right to equal treatment without discrimination anchored in the European Convention on Human Rights and EU equality legislation. The Act will extend positive equality duties to public authorities which must have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different groups. However these provisions have not yet been implemented by the Government.

The Act was based on Lord Lester's original Private Member's Bill, the Equality Bill, which passed successfully through the House of Lords in 2003 but which was not supported by the Government. At the time, however, the Government did commit to the revision of the UK's anti-discrimination laws. As a result, and following a lengthy consultation, the Government published its own Equality Bill on 24 April 2009.

Following the publication of the Government's Bill, the Parliamentary Legal Officers worked closely with Liberal Democrat MPs in the Commons to develop policy and draft amendments for the Committee Stage of the Bill which took place between 2 June and 7 July. Throughout 2009 and 2010, the Trust built relationships with academics, NGOs, trade unions and other organisations to develop support for key amendments on the Equality Bill. The Trust organised a cross-party coalition of Peers to work together to improve the Bill in the House of Lords. The Trust was also involved in briefing Liberal Democrat Peers on various aspects of the Bill.

Throughout the Bill's progress through Parliament, the Trust wrote several letters to Government Ministers on particular details of the Bill, such as equal

pay, multiple discrimination and harassment. These letters were followed by meetings with Government Ministers and officials and a number of significant concessions were achieved. Following these meetings, we identified areas of priority for amendments in the House of Lords and drafted amendments.

The Trust worked on and pushed key amendments which effected: the outlawing of discrimination against pregnant school girls; the extension of anti-discrimination provisions to harassment against gay and lesbian school students; the defence of a material factor definition in equal pay; extending the definition of 'relevant types of work' for the purposes of equal pay provisions. Lord Lester and the Trust also advised the Government on a range of key issues including equal pay, harassment, anti-discrimination legislation on the basis of sexuality, caste, combined discrimination, proportionality and religion; civil partnerships and religious premises; and immigration. For the duration of the Bill, Lord Lester was the front-bench spokesperson for the Liberal Democrats on all matters relating to the Bill.

The Defamation Bill

Lord Lester introduced his private member's Defamation Bill in the House of Lords on 26th May 2010. The Bill followed a report by English PEN, Index on Censorship and Sense About Science, *Free Speech is not for Sale*, which criticised the state of defamation law in the UK and called for a Bill to reform the law and reduce the chilling effect created by legal uncertainty and disproportionate costs.

Lord Lester's Bill was the result of several months of collaborative work with free speech NGOs and media law specialists and was drafted with the assistance of former Parliamentary Counsel, Stephanie Grundy. The Bill received its Second Reading in the House of Lords on 9th July 2010, and the Government committed to introduce its own Bill, by way of response.

The Bill sought to simplify and modernise the law of defamation and to create a fairer balance between the right to reputation and the right to free speech.

Following the commitment to a Government draft Bill, Lord Lester and the Trust have worked with Ministry of Justice officials, advising on draft clauses for inclusion in a draft Government Bill to be published for consultation in early 2011.

Other Bills

Terrorist Asset-Freezing etc Bill

The Terrorist Asset-Freezing etc Bill replaced the Terrorist Asset-Freezing (Temporary Provisions) Act 2010, emergency legislation enacted in February 2010 following the decision of the Supreme Court in *HM Treasury v Ahmed* quashing the orders in Council which provided the legal basis for the previous asset-freezing regime.

The Bill raised significant human rights issues in relation to the legal threshold for an asset freeze, compatibility with the right of access to court, compatibility with the right to a fair hearing, adequacy of mechanisms for parliamentary accountability and the comprehensiveness of the framework. The Trust and Lord Lester was closely involved in ensuring that the bill contained sufficient safeguards to ensure its compatibility with fundamental rights.

Committee Work

Lord Lester returned as a member of the Joint Committee on Human Rights (JCHR) following the election of the Coalition Government in May 2010.

During 2010, the JCHR carried out inquiries into: enhancing parliament's role in relation to human right's judgments; counter-terrorism policy and human rights; the Equality and Human Rights Commission; human rights and the UK private sector; children's rights; and demonstrating respect for rights.

The legislation scrutinised by the JCHR in 2010 includes: the Equality Bill; the Digital Economy Bill; the Crime and Security Bill; the Personal Care at Home Bill; the Children, Schools and Families Bill; the Constitutional Reform and Governance Bill; the Video Recordings Bill; the Financial Services Bill and the Pre-Budget Report; the Identity Documents Bill; the Academies Bill.

The JCHR also reported on the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (Remedial) Order.

Lectures and publications

In 2010 Lord Lester gave a number of speeches, talks, and contributed to publications with research and drafting assistance provided by the Trust:

In January 2010, a speech Lord Lester had given in 2009 at De Montfort University on multiculturalism and free speech was published in the *Political Quarterly*.¹

Also in January he was the keynote speaker at the Trade Union Conference on Discrimination Law and the ERS Conference on Discrimination Law.

In February 2010 he spoke about his involvement in the development of the Civil Partnership Act to Gender and Law at Durham (GLAD) University.

Lord Lester spoke about the Defamation Bill to the Westminster Forum Seminar on Libel and Privacy in June 2010, a Policy Exchange meeting in July and on Libel Reform to the London Solicitors Litigation Association. He spoke to Davenport Lyons on Libel Reform in October and he chaired a symposium on "Reframing Libel" at City University, Centre for Law Justice and Journalism in November.

2010 also saw Lord Lester write a chapter of *The Changing Constitution* (7th edn), Jowell and Oliver, entitled 'Human Rights and the British Constitution', OUP (forthcoming).

In October Lord Lester spoke at a conference on Protecting Human Rights, UK v USA, at Notre Dame University Law Centre: "Happiness Pursued: after 10 years of the Human Rights Act" and he spoke at the 12th Annual Justice/Sweet & Maxwell Human Rights Conference "Human Rights and the new Government".

He chaired the Sweet & Maxwell Annual Judicial Review Conference and the Human Rights Lawyers' Association Conference on forced marriage in November 2010. In the same month he was also the keynote speaker at the 3rd Annual Lawyers Evening, Irish Council for Civil Liberties in Dublin on "Taking Human Rights Seriously as a Lawyer".

He chaired King's College London's conference on 5 Years of Civil Partnership - "Time for an equal choice of marriage or civil partnership for all couples?" in December 2010.

¹ Lord Lester of Herne Hill QC, 'Multiculturalism and Free Speech', *Political Quarterly*, Vol. 81, No. 1, January-March 2010, pp. 15-24.

Other issues

Prisoners' voting rights

Lord Lester has continued to press the Government to introduce legislation in response to the judgment of the European Court of Human Rights in *Hirst v UK*² which found that the UK's blanket ban on voting for prisoners is in breach of the European Convention on Human Rights. Lord Lester has participated in debates and tabled written questions on prisoners' voting rights on several occasions throughout 2010 (see list below).

Forced marriage

Since the introduction of Lord Lester's Forced Marriage Act in 2007, Lord Lester has continued to press the Government to ensure the Act's proper implementation and effectiveness (see list below).

House of Lords Debates

The Trust assisted Lord Lester in his preparation for several debates in the House of Lords, including debates on:

- The Equality Bill, 11, 13, 19, 25 and 27 January, 9 February, 23 March,
- Honour-related violence, 14 January 2010
- Intercept evidence, 14 January 2010
- Libya: Human Rights, 18 January 2010
- Bribery Bill, 2 February 2010
- Assisted dying, 3 February 2010
- Self-defence, 25 February 2010
- Government Records – 30 year rule, 9 March 2010
- Constitutional Reform and Governance Bill, 24 March 2010
- Rights of gay asylum-seekers, 8 July 2010
- Terrorist Asset-Freezing Bill, 6 October 2010
- Compliance with obligations in the Equality Act, 6 October 2010
- Reform of the Equality and Human Rights Commission, 14 October 2010
- Prisoners' voting rights, 18 October 2010

² (2006) 42 EHRR 41.

Parliamentary written questions

Lord Lester and The Odysseus Trust have continued to press the Government through a series of parliamentary questions on matters related to good governance including:

- UK candidates for UN Committees on women, 5 January 2010
- EU Equality legislation, 7 January 2010
- Child workers and forced labour abroad, 25 January 2010
- Gender pay gap, 1 February 2010
- EU: violence against women, 2 February 2010
- ECHR and criminal justice, 9 February 2010
- First Optional Protocol to the ICCPR, 10 February 2010
- Government influence of Law Officers, 22 February, 22 March, 6 April 2010
- Stateless people, 2 March, 3 March 2010
- Faith Communities Capacity Building Fund, 3 March 2010
- Strengthening UN treaties, 4 March 2010
- Council of Europe's Human Rights Trust Fund, 4 March 2010
- Safeguarding children, 11 March 2010
- Prisoners and sexual violence, 11 March 2010
- Protocol 7 to the European Convention on Human Rights, 5 January, 3 June, 12 July, 11 October 2010
- Marriage licence applications, 7 June 2010
- Prisoners' voting rights, 5 January, 16 and 17 March, 6 April, 10 June, 11 October 2010
- Voting rights and British nationals living overseas, 29 March, 10 June 2010
- Forced marriages, 21 January, 9 March, 15 March, 14 June, 13 October 2010
- Default retirement age, 29 June 2010
- Police and libel, 6 July 2010
- Non-contractual obligations and freedom of expression, 7 July 2010
- Disabled people and service in the armed forces, 15 July 2010
- Disabled people and immigration, 19 July 2010
- Disabled people and education, 20 July 2010
- Child abduction, 22 July 2010
- Exclusion of Roman Catholics from the throne, 26 July 2010
- Alan Shadrake, 27 July 2010
- Immigration: tribunals, 28 July, 2 August 2010
- Equality Act, 28 July 2010
- Parliamentary Commissioner for Administration, 9 August, 22 October 2010
- European Protection Order, 11 March, 23 March, 16 August 2010
- Public access to digital High Court records, 20 August, 19 October 2010

- Forced marriages, 27 September 2010
- Alleged torture of Ramze Shihab Ahmed in Iraq, 11 October 2010
- Abuses of human rights in Burma, 11 October 2010
- Third Parties (Rights Against Insurers) Act 2010, 19 October 2010