



The Odysseus Trust
Report on Activities from
December 2005 to December 2006

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Introduction

The Odysseus Trust ('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 December 2005 to December 2006.

The Trust is directed by Lord Lester of Herne Hill QC. The current Parliamentary Legal Officers are Kate Beattie and Alex Wilks. 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 the last twelve months have been the preparation and introduction of the Constitutional Reform (Prerogative Powers and Civil Service etc.) Bill and the Forced Marriage (Civil Protection) Bill. The Trust responded to several consultation exercises by the Law Commission, Government departments and Parliamentary committees. The Trust also undertook a number of equality and human rights projects and strengthened its links with NGOs, lobby groups and members of both Houses of Parliament. Our website (www.odysseustrust.org) attracts 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 Constitutional Reform (Prerogative Powers and Civil Service etc.) Bill

The Trust prepared a new version of the Executive Powers and Civil Service Bill (see Annual Report 2003- 04), entitled the Constitutional Reform (Prerogative Powers and Civil Service etc.) Bill. The Bill introduced the same reforms and also incorporated provisions of the Parliamentary Commissioner (Amendment) Bill, enabling the public to have the option of direct access to the Parliamentary Commissioner, while retaining the option of access via a MP.

The Second Reading debate on the Bill took place on 3 March 2006. There was support for the Bill from all sides of the House, in particular the parts dealing with the Civil Service.

Lord Lester made a proposal to the House of Lords Liaison Committee to establish an ad hoc Select Committee to consider Part 2 of and Schedule 3 to the Constitutional Reform Bill in the context of other current proposals to create a statutory framework for the Civil Service and its relations with Ministers, Special Advisers, and Parliament. The Committee did not agree to the proposal, as it felt that this would add little value to the deliberations and reports of other bodies, in particular the Public Administration Committee's report in 2003 (A Draft Civil Service Bill: Completing the Reform (2003-04, HC 128-I)), and the Government's consultation paper and draft bill of November 2004 (Cm 6373).

Following the report of the Liaison Committee, the Bill passed through all subsequent stages of the House of Lords, with Third Reading on 24 July 2006. The Bill was taken up by Andrew Dismore MP in the House of Commons, did not make any further progress due to the lack of parliamentary time.

The Forced Marriage (Civil Protection) Bill

The Forced Marriage (Civil Protection) Bill contains proposals for dealing with the problem of forced marriage by giving enhanced protection to victims and potential victims. The Bill is a Private Member's Bill drafted in conjunction with a team of leading family lawyers. The Trust is also working closely with the Southall Black Sisters, an Asian and Afro-Caribbean women's rights NGO which has been at the forefront of campaigns for improvements in policies and services to black and minority women in relation to forced marriage and honour killings.

There is currently no law prohibiting forced marriage in the UK. In June 2006, following a consultation process, the Government decided not make forced marriage a crime, as opinion was divided about whether this would help victims (see *Forced Marriage: A Wrong not a Right*, published by the FCO, Home Office, and Scottish Executive, 7 June 2006). While forced marriage is a crime in Pakistan, India, Bangladesh and some European countries, no country has tailored statutory remedies for victims and potential victims.

The Bill contains helpful, constructive, user-friendly civil remedies for victims and potential victims of forced marriage. It sends a clear message that forced marriage is wrong and unlawful, a position adopted by all major religions and by international human rights standards and treaties.

The Bill focuses on prevention rather than cure, and aims to empower both women and men (and children) who may be forced into marriage. The Bill allows victims and their friends to seek simple and speedy remedies before a

marriage has taken place, and in this way gives young people more tools to negotiate with their parents and wider family.

The primary remedy offered by the Bill is an injunction. In making such orders, the court must have regard to all the circumstances of the case, including the health, safety and well-being of the victim. As a secondary remedy, the Bill allows civil proceedings to be brought. Damages will only be available where necessary to provide an effective remedy to the victim, taking into account any remedies that they have obtained.

By using civil remedies rather than criminal law, the Bill empowers young women and men to ensure respect for their human rights.

The Bill will be debated on 26th January 2007 at Second Reading in the House of Lords.

Committee Work

Joint Committee on Human Rights (JCHR)

Lord Lester is an active and longstanding member of the JCHR. The JCHR consists of members of both the House of Commons and the House of Lords and is charged with consider matters relating to human rights in the UK (but excluding consideration of individual cases). It publishes influential reports on Bills which contain the JCHR's views on whether legislative measures are compatible with the UK's obligations under the European Convention on Human Rights and other relevant human rights treaties. In the 2005-06 session, the JCHR undertook important inquiries into counter-terrorism and human rights policy and the UK's obligations under the UN Convention Against Torture (UNCAT).

House of Lords Select Committee on the European Union: Law and Institutions (Sub-Committee 'E')

Lord Lester continues is an active member of EU Sub-Committee 'E'.

Other Projects

Freedom of Information

The Trust was actively involved in the passage and adoption of the Freedom of Information Act 2000, which came into force on 1 January 2005, and has since made use of the Act to request information from the Government on matters of public interest.

On 20 February 2006, after a delay of over a year, an answer to Lord Lester's FOI request for 'date when the Government first sought legal advice about the legality of an invasion of Iraq' (see Annual Report 2004-2005) was finally received. In light of the delay and unsatisfactory handling of the request, which was characterized by a lack of cooperation and transparency from the Government, Lord Lester submitted written evidence to the Constitutional Affairs Committee Inquiry into the Operation of the Freedom of Information Act.

The Commission for Equality and Human Rights

The Trust was heavily involved in the passage of the Equality Act 2006 through Parliament, and, together with other human rights and equality organisations and the Joint Committee on Human Rights, successfully campaigned for vital improvements to the Commission's functions and powers (see Annual Report 2004-2005). The Bill passed through its subsequent stages and received Royal Assent on 16 February 2006.

Equality Work

The Trust continues the campaign for a single Equality Act, which is comprehensive, user-friendly and effective. The Legal Officers are observer members of the Equality and Diversity Forum, which represents a range of organisations and which campaigns tirelessly for a single Equality Act. This campaign has the support of all the Equality Commissions, major NGOs, Trade Unions and some employers groups. Lord Lester serves as a vice-chair of the All Party Parliamentary Group on Equalities.

The Equalities Review published an Interim Report in March 2006. The Discrimination Law Review is yet to publish a report, which is expected at the beginning of 2007.

The work is underpinned by Lord Lester's Equality Bill and the Trust will monitor the work of the Discrimination Law Review closely.

Sexual Orientation Regulations

In June 2006, the Department for Trade and Industry issued a consultation on proposals to outlaw sexual orientation discrimination in the provision of goods and services. The Trust responded to the consultation with a written submission. The response supported the Government's intention to use the power contained in the Equality Act 2006 to introduce regulations prohibiting discriminatory treatment in this area and broadly welcomed the proposals outlined in the consultation paper as a good starting point for this much-needed legislation.

Rights of Cohabitees

In May 2006, the Law Commission published a consultation paper entitled 'Cohabitation - The Financial Consequences of Relationship Breakdown'. The Trust welcomes the Law Commission's willingness to review and suggest possible reforms to the law relating to cohabiting couples. However, we regret that the consultation was narrowly restricted by the terms of reference agreed with the Government, which meant that its recommendations involved replacing one incomplete patchwork with another incomplete patchwork.

Unmarried cohabiting couples in long-term relationships need to be given the same rights and responsibilities, irrespective of their sexuality, or whether they have children. They need a scheme of voluntary registration which provides for rights and responsibilities similar to what is contained in the Civil Partnerships Act 2004. That is the approach upon which Lord Lester's Civil Partnerships Bill 2002 was based, and is the approach in some other European and Commonwealth countries. It does not require unmarried opposite-sex couples to marry, but gives them a choice.

Human Rights Act and the Implementation of the ECHR

The Trust continues to monitor the implementation of the Human Rights Act 1998, noting key cases brought under the Act and keeping abreast of academic writing and new developments in the field of human rights at home and overseas. We monitor government Bills which have human rights implications and draft amendments where necessary, often along the lines of recommendations made by the JCHR. The Trust also provides briefings for other peers, NGOs and the press. Lord Lester has continued to work with the wider media, publishing letters in newspapers and appearing on radio and television.

Lord Lester continues to give seminars and lectures, deepening public awareness of the Act.

At the beginning of 2006, there were widespread attacks on the legitimacy of the Human Rights Act by the tabloid press and the Conservative Opposition, and questioning by Ministers whether the Act should be repealed or amended. The Trust worked with other NGOs campaigning to protect the Act, and attended the "Human Rights Summit" held by the Disability Rights Commission in May 2006.

In light of the public controversy surrounding the Act, the Prime Minister asked the Department for Constitutional Affairs to lead a review looking at the problems with its implementation. The Trust welcomes the Review's conclusion that the Government should not withdraw from the ECHR or repeal the Act.

The Trust has also pursued a series of Parliamentary Questions on the implementation of Strasbourg judgments. Despite our concerns about the absence of an effective mechanism to secure the rapid implementation of Strasbourg judgments (concerns echoed by the Joint Select Committee on Human Rights), the Government has refused to introduce any new mechanism, remaining of the view that existing procedures are already effective.

International Human Rights Obligations

Further to the incorporation of the European Convention, the Trust continues to press the government to commit fully to the UK's other international human rights obligations. The Trust welcomes the Government's ratification in July 2006 of the Optional Protocol to the UN Convention Against Torture (UNCAT). However we are disappointed that the Government continue to refuse to accept the right of individual petition under the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Racial Discrimination (CERD). We continue to press for acceptance of these mechanisms.

All Party Parliamentary Group for the Prevention of Genocide

Lord Lester is Vice Chair of the All Party Parliamentary Group on Genocide. In January 2006 he attended a meeting with the APPG and Lord Triesman, Parliamentary Under-Secretary for the Foreign and Commonwealth Office, in relation to the situation in Darfur and the funding shortfall for the African Union mission there. In September 2006, a Parliamentary Legal Officer attended a meeting with the APPG and the Home Secretary, the Rt. Hon. John Reid, in relation to the suspected Rwandan genocidaires residing in the UK. Lord Lester was re-elected as Vice Chair for the 2006-2007 parliamentary year.

Parliamentary Commissioner for Administration

Lord Lester pursued a series of Parliamentary Questions on the record of Government departments and agencies in giving effect to the recommendations of the Parliamentary Ombudsman.

As a result of these questions, the Home Office has agreed to look at better ways of collating and making available information about recommendations made by the Parliamentary Ombudsman following their investigations, in a way which is commensurate with the ombudsman's own publication procedures (see Lords Hansard, 8 November 2006, WA194-5).