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CRIMINAL JUSTICE MATTERS

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Since the publication of the report of the Royal Commission in 1993 the controversy surrounding the process of delivering justice has not abated. At the heart of this controversy is a concern with the realisation of justice and the protection of rights on one side and a preoccupation with questions of expediency and service delivery on the other.

In recent months these controversies have become focused around the Home Secretary, Michael Howard, as a result of his plans to cut down judicial discretion through mandatory sentences for repeat burglars and automatic life sentences for second convictions on serious assault or violence charges. In this proposed shift towards tougher mandatory sentences Michael Howard has inadvertently raised a number of issues relating to the role of social and individual circumstances in the sentencing decision. These, as well as a range of mitigating circumstances which may have reasonably to be taken into account when passing sentence, serve to undermine the principle of mandatory sentencing.

Paradoxically, Michael Howard, in attempting to override the context and circumstances in which offences are committed has prompted a general debate about the apparently arbitrary nature of some judicial decisions. As **Andrew Ashworth** points out in the opening article there are some perplexing issues about how the law deals not only with an individual's actions but also with the possible consequences of these actions. He asks the question whether or not the law should take into account the unanticipated consequences of offenders' actions and in particular whether the victim or the victim's family should participate in any way in the sentencing process.

The role of the victim is the central concern of **Martin Wright's** article. He claims that the recent changes in the criminal justice process which were designed to take the victim's perspective into account, have not changed the process itself. He argues that there should be more emphasis on a restorative rather than a retributive system of justice. **Bryan Gibson** focuses on the role of recent

developments in magistrates courts, which have had a significant impact upon questions of judicial independence and accountability.

The issue of accountability is central to **Jacqueline Hodgson's** discussion of miscarriages of justices. Following the well-publicised cases of the 'Guildford Four' and the 'Birmingham Six', she poses the question of what has been done to achieve the aims of the Royal Commission to minimise the possibility of such events happening in the future. Her conclusions are not encouraging and she feels that the aims expressed by the authors of the Royal Commission have been superseded by a new set of objectives which place more emphasis upon eliminating the acquittal of the guilty than the conviction of the innocent.

Ailsa Thomson, of Justice, explores this theme further, from the point of view of the appeals process. A European dimension is provided by **Stephen Jakobi**, of Fair Trials Abroad, who points out some of the difficulties faced by those who are charged with criminal offences in countries not their own.

From a different perspective, **Peter Neyroud** outlines the key points of the recent ACPO position paper 'In Search of Criminal Justice' whilst **Warwick Maynard**, of the Police Research Group, examines some of the work that has recently been done on the prevention of witness intimidation.

Access to the legal profession is a theme dear to the hearts of many lawyers and would-be lawyers. **Helena Kennedy** mentions some aspects of discrimination in this field, in her wide-ranging interview for this issue with David Kidd-Hewitt, whilst **Tim Newburn** and **Michael Shiner** describe the findings from the ongoing research study for the Law Society. Another topic about which Helena Kennedy feels passionately, and to which she is strongly opposed, is the televising of court proceedings. Interestingly, we also carry an article from **Ben Gale**, producer of the documentary series 'The Trial', who mounts an equally vehement defence of the process.

Roger Matthews and Julia Braggins