

2024.2025 (37) Professor David Bilchitz (Acting Justice of the Constitutional Court of South Africa), Access to Life-saving Medication for All? Positive Obligations, Corporations, and Fundamental Rights

In 2024, the National Institute for Health Care and Excellence (NICE) decided that a life-saving breast cancer drug Enhertu could not be made available on the NHS in England and Wales, largely due to the high price being charged by pharmaceutical corporations. Much of the subsequent outcry in the media has been focused on government's obligations to ensure access to life-saving drugs. Yet very little discussion has been focused on the obligations of pharmaceutical companies to make such life-saving drugs available at an affordable price. This lecture will consider the question of whether corporations have positive obligations to take active steps to assist in the realization of fundamental rights, and, if they do, how to determine the extent of their obligations. First, I will consider the case for recognizing that corporations have positive obligations. I will provide reasons for rejecting the position in existing international frameworks such as the United Nations Guiding Principles on Business and Human Rights which confine corporate obligations to those involved in avoiding harm to fundamental rights. Secondly, I will turn to consider how to determine the substantive content and extent of those obligations. I will provide an analytical framework for addressing this question which involves multiple factors and a decision-making procedure for reaching a final determination. Throughout, I will use the example of access to life-saving medications by pharmaceutical manufacturers to illustrate the approach. Lastly, I consider how a recognition of positive obligations of corporations can practically be enshrined in law. I evaluate a promising approach adopted in India requiring corporations to spend 2% of their net profits on contribution to social projects and demonstrate, how suitably modified, such an approach can be harnessed to ensure corporations play their part in helping to realise our most basic of rights.

2023/2024 (36) Professor Aoife Nolan (President of the Council of Europe's European Committee of Social Right), Human Rights, the Cost of Living and Polycrisis in Europe

Since 2022, Europe has faced a cost of living crisis, with high inflation and associated rising prices and reduced household incomes having a particularly severe impact on those who were already at the sharp end of European society. Far from being a merely short-term, freestanding social and economic 'blip' that will be solved by a drop in inflation, the cost-of-living crisis forms part of a polycrisis; it constitutes the most chronologically recent element of the series of financial, economic, health and conflict-related shocks that have buffeted the most socially vulnerable across Europe over the last two decades. This lecture focuses on what the cost of living crisis and the broader polycrisis mean for human rights standards, mechanisms and effectiveness in Europe. What role should human rights play In a present and future of polycrisis – and how can this be ensured?

2022/2023 (35): Nazir Afzal (Chancellor, University of Manchester), Why the Current Justice System is Broken

Nazir Afzal is one of the UK's leading advocates for social justice and spent many years with the CP. He later joined the Association of Police and Crime Commission (leaving to comment more freely on the Manchester Arena Bombing) and the Independent Press Standards Organisation. Throughout his career he has doggedly fought for the rights of women and

children, especially those from minority ethnic and religious backgrounds, but has been a voice for the vulnerable more generally. He has been outspoken on forced marriage, honour killings and female genital mutilation.

From his own early experiences of racism and bullying onwards, Nazir understood that the criminal justice system, functioned to marginalise and exclude certain groups of people. He also rapidly came to perceive that both the problems and solutions were nuanced and complex, a reality that he would dramatically confront when prosecuting the Rochdale Child Sexual Exploitation cases.

Nazir is also the independent Chair of the Catholic Church's Safeguarding Agency and is currently conducting an independent review of the culture of London Fire Brigade for the Mayor of London.

His talk engaged with the question of why the current justice system is broken, as well as the legacy of Rochdale. What can we do to make all citizens truly equal before the law, regardless of age, gender, class, ethnicity, sexuality, religion, or culture?

2021/2022: There was no Harry Street Lecture in the 2021/2022 academic year.

2020/2021 (34): Professor Alison Young, UK Constitutional Reform – Westminster or Whitehall?

We're often told that there is no real understanding of the separation of powers in the UK constitution. Its efficient secret is the fusion of the executive and the legislature, combined with the independence of the judiciary. Yet, this misunderstands the extent to which the UK constitution rests on a delicate balance of powers between Parliament, the Government and the courts. As the UK constitution evolves, the balance between Parliament and the Government – between Westminster and Whitehall – fluctuates.

The Conservative Party's 2019 general election manifesto promised to establish a Commission on the Constitution, Democracy and Rights, as well as repealing the Fixed-term Parliaments Act 2011. Both the Independent Review of Administrative Law and the Independent Human Rights Act Review have asked whether the UK constitution currently gives too much power to the courts. This lecture will argue that, in doing so, these reviews fail to tackle a deeper problem. The lecture will ask whether the real problem is a tipping of the balance of power away from Westminster towards Whitehall and asks whether this is a move in the right direction'.

Alison Young is the Sir David Williams Professor of Public Law at the University of Cambridge and a Fellow of Robinson College. She researches in all aspects of public law and constitutional theory, focusing recently in particular on the implications of Brexit on the UK constitution. She has published two monographs, *Parliamentary Sovereignty and the Human Rights Act and Democratic Dialogue and the Constitution* and has just finished updating the most recent edition of *Turpin and Tomkins: British Government and the Constitution*. She also co-edits the UKCLA blog, is a trustee of the Constitution Society and the Director of the Cambridge Centre for Public Law.'

2019/2020 (33): Andy Burnham, Manchester and the North of England

The 2019-2020 Harry Street Lecture, titled Manchester and the North of England, was delivered by the Mayor of Greater Manchester Andy Burnham.

2018/2019 (32): Lucy Powell MP, The Role and Functions of MPs in the UK

The 2018-2019 Harry Street Lecture, titled The Role and Functions of MPs in the UK, was delivered by Lucy Powell MP.

2017/2018: There was no Harry Street Lecture in the 2017/2018 academic year.

2016/2017 (31) Bishop James Jones, Jurisdiction in this Realm

The 2016-2017 Harry Street Lecture, titled Jurisdiction in this Realm, was delivered by Bishop James Jones the former Bishop of Liverpool.

2015/2016 (30): Dominic Grieve QC MP, Can a Bill of Rights do better than the Human Rights Act?

It was with Harry Street's constitutional interests in mind that I take as my theme the current debate on whether or not we should replace the HRA with a British Bill of Rights. In selecting my title, I had hoped that by the time I gave this talk we would have available the government's proposals. I might then be able to do a critique. But they have still not appeared, which may indicate a growing understanding of the complexity of the idea that is being put forward. I am left with the task of reviewing the issues without the benefit of the Government's detailed arguments. I must accept that challenge. In doing this I also want to review my own thinking on this matter.

2014/2015 (29) Professor Adam Tomkins, New Union – New Constitution?

The 2014-2015 Harry Street Lecture, titled New Union – New Constitution?, was delivered by Professor Adam Tomkins.

2013/2014 (28): Professor Rodney Brazier, The Queen, The Constitution and Me

Professor Rodney Brazier, Emeritus Professor of Constitutional Law, traced the changes which have taken place to the monarchy in its relationship to the Constitution during the Queen's sixty plus years as sovereign.

Professor Brazier was appointed Member of the Royal Victorian Order (MVO) in the 2013 Birthday Honours for services to constitutional law, which is an honour awarded personally by the Queen and normally received by her private household. He has been advising Buckingham Palace on constitutional issues since 1996.

2012/2013 (27): Professor Dawn Oliver, Constitutional Moments in the UK

The 2012-2013 Harry Street Lecture, titled Constitutional Moments in the UK, was delivered by Professor Dawn Oliver.

2011/2012 (26) Geoffrey Robertson QC, From Murdoch to Assange - do moral ethics matter?

The 2011-2012 Harry Street Lecture, titled From Murdoch to Assange - do moral ethics matter?, was delivered by Geoffrey Robertson QC.

2010/2011 (25): Professor Alun Brudner, Toward a Theory of Criminalization

The 2010-2011 Harry Street Lecture, titled Toward a Theory of Criminalization, was delivered by Professor Alun Brudner.

2009/2010 (24): Professor Carol Harlow, Rationalising administrative compensation [2010] P.L. 321

Considers the options for imposing liability on the state for losses incurred by citizens through official action and for obtaining compensation, questioning the extent to which the state is protected by Crown immunity. Comments on academic writings, including those of H. Street, and compares this to other legal systems. Suggests how compensation could be administered and paid, and how discretionary ex gratia payments work, highlighting examples of public scandals which led to compensation being paid. Notes the provisions of the Law Commission consultation paper on administrative redress and other public policy governing state compensation schemes.

2008/2009 (23): Professor Anthony Ogus, Regulation revisited [2009] P.L. 332

Reproduces a revised version of the 24th Harry Street Lecture given at Manchester University in October 2008 analysing developments in public law regulation since 1979. Explains the

limited academic study of regulatory objectives and their legal instruments in 1979 and the factors contributing to the altered position in 2008, including changes in public policy and the contributions of regulatory scholarship. Considers, with the aid of a practical example involving the siting of pedestrian traffic lights, the risk management issues that regulatory policy makers must address.

2007/2008 (22) Sir Louis Blom-Cooper QC, Press freedom: constitutional right or cultural assumption [2008] P.L. 260

Discusses the role of the media in terms of the concept of press freedom and whether it differs from a general status of individual rights and freedoms under provisions such as the European Convention on Human Rights 1950 Art.10. Examines the history associated with the rise of the press as the Fourth Estate. Considers: (1) the media's involvement in the Family Proceeding Courts, and the associated controversy; (2) the rights of journalists, such as the protection afforded to their sources of information, as possible indicators of a special immunity; and (3) press regulation and restrictions on freedom of speech.

2006/2007 (21) Lord Falconer of Thoroton LC, Constitutional reform: maturity and modernisation

The 2006-2007 Harry Street Lecture, titled Constitutional reform: maturity and modernisation, was delivered by Lord Falconer of Thoroton LC.

2005/2006 (20): Professor David Feldman, Human rights, terrorism, and risk: the roles of politicians and judges [2006] P.L. 364

Presents a revised version of the 20th Harry Street Lecture given at Manchester University in November 2005, analysing the functions of judges and politicians in relation to terrorism. Discusses whether a liberal consensus emerged during the 1960s in relation to law and order, whether this has now ended and whether unprecedented problems currently exist that justify a more repressive approach to terrorism which gives security a greater importance than individual liberty. Reflects on whether politicians have greater legitimacy or technical competence than judges when assessing the threat of terrorism and the measures needed to combat it and whether judicial interventions to uphold civil liberties in opposition to government anti terrorism policy are misconceived. Considers possible future developments.

2004/2005 (19): Baroness Hale of Richmond, The quest for equal treatment [2005] P.L. 571

Provides a text of the Harry Street Memorial lecture, delivered on October 21, 2004, on the the issue of equal treatment. Highlights the three types of legal solution, namely private law remedies against suppliers, requiring public officials to uphold the law, and ensuring equal protection of the laws. Compares the European Convention on Human Rights 1950 Art.14 and the 14th amendment to the US Constitution. Considers the issue of equal treatment with reference to suspected terrorists, noting the House of Lords decision in Ghaidan v Godin-Mendoza.

2003/2004 (18): Lord Wilson of Dinton, The robustness of conventions in a time of modernisation and change [2004] P.L. 407

Transcribes the text of the Harry Street Memorial Lecture given in Manchester on October 17, 2003, concerning the challenges posed to the UK's unwritten constitutional conventions. Discusses the scope of such conventions, their distinctiveness from constitutional practice and the pressures they face from media power, constitutional change, management reforms in the civil service and public ignorance. Analyses the constitutional issues behind claims that the Prime Minister's role is becoming increasingly "presidential" and comments on the potential dangers of the changing conventions of accountability and collective responsibility, highlighting the scope for confusion or unfairness towards civil servants and the importance of the distinction between accountability to Parliament and personal responsibility.

2002/2003 (17): Professor Brice Dickson, The contribution of human rights commissions to the protection of human rights [2003] P.L. 272

Explains the essential characteristic of a human rights commission as an official body working on the protection of human rights. Describes the role of human rights commissions in international human rights law, with examples from the work of the Northern Ireland Human Rights Commission. Sets out the value that can be added by human rights commissions at local level in respect of: (1) influencing politicians and civil servants; (2) working in the courts; (3) investigating alleged human rights abuses; and (4) promoting awareness and understanding of the importance of human rights. Looks at the progress of the Northern Ireland Human Rights Commission in these areas and calls for the creation of a human rights commission for England.

2001/2002 (16): Lord Bingham of Cornhill, Dicey revisited [2002] P.L. 39

Career and achievements of Victorian academic and constitutional lawyer, anomalies and contradictions in his work and his possible reactions to 1998 Act and devolution of power to Scotland, Wales and Northern Ireland.

2000/2001 (15): Sir Thomas Legg, Judges for the new century [2001] P.L. 62

Current system for selection and appointment of judges, criticisms levelled at system and suggestions for future development.

1999/2000 (14): Professor Sir David Williams, Bias: the judges and the separation of powers [2000] P.L. 45

Issues of bias concerning relationship between judiciary and executive and judicial participation in areas of public controversy including litigation on public inquiries.

1998/1999 (13): Sir Francis Jacobs, Public law: the impact of Europe [1999] P.L. 232

Influence of ECHR and EC law on administrative and constitutional law, including provision of reasons for administrative decisions, right of access to courts, principle of proportionality in judicial review, locus standi and remedies.

In this lecture I shall consider the influence of European law at the time of the 25th anniversary of United Kingdom entry into the European Community, and at a time when we have just witnessed the inauguration of the new full-time European Court of Human Rights in Strasbourg and are witnessing the enactment of the Human Rights Act, which gives statutory force to the core provisions of the European Convention on Human Rights.

1997/1998 (12): Dame Mary Arden, Modernising legislation [1998] P.L. 65

Developments in reform of statute law, including Tax Simplification Programme and use of Hansard to construe Acts, and role of courts in developing statute law with particular reference to human rights.

The common legal world is rapidly becoming divided into two camps: statute lawyers and common lawyers. Legislation has been prolific in recent years so that there are several areas of law which now have a substantial statutory base.

1996/1997 (11): Sir Sydney Kentridge, Parliamentary supremacy and the judiciary under a bill of rights [1997] P.L. 96

Whether enactment of Bill of Rights based on ECHR would politicise judiciary, taking illustrations from Canada and South Africa.

It is an honour for any lawyer to be associated with the name of Harry Street. The growth of administrative law, it has often been noted, is the most remarkable development in English law in this half-century. Harry Street's writing and lecturing played no small part in this development, and one of his particular interests was a Bill of Rights for the U.K. Harry Street would no doubt have been surprised had he been told that the debate on a Bill of Rights for the U.K. and in particular on the incorporation of the European Convention on Human Rights into U.K. law would be continuing in full vigour in 1996. The desirability of incorporating the Convention into the law of this country was first pertinently raised by Mr Anthony Lester (now Lord Lester Q.C.) in a pamphlet published as long ago as 1968. He has been a persistent and effective campaigner ever since not only through his lectures and in articles in law journals and the press but more recently as a legislator in the House of Lords. For more than 20 years incorporation of the Convention has been publicly supported by Lord Scarman and more recently by many other Law Lords. It was the subject of the maiden speech in the House of Lords of the present Lord Chief Justice. Yet opinions are still divided: the present Lord Chancellor continues to oppose the enactment of the European Convention into the law of this country for reasons which demand careful consideration. In particular, Lord Mackay fears that such a measure would introduce an undesirable political element into the work of the judges and would under-mine the authority of the democratically elected Parliament of this country.

1995/1996 (10): Nicole Questiaux, Administration and the rule of law: the preventive role of the French Conseil d'Etat [1995] P.L. 247

Conseil d'Etat as adviser to the Government, its reporting function, relationship with EC law and role in upholding fundamental rights.

It is more than a century ago that Dicey made his comments about the difficulty an Englishman has in believing that administrative courts can give proper protection to individual freedoms, and compared French 'droit administratif' unfavourably with the English rule of law. I want to take the opportunity offered by this lecture to public lawyers in Great Britain to focus on the fact that this administrative judge is also the adviser to the administration which he judges, and to suggest that this apparent confusion of role is a part of our concept of the rule of law in France. This topic may be of particular interest in our common European context.

1994/1995 (9): Lord Lester of Herne Hill, Discrimination: what can lawyers learn from history? [1994] P.L. 224

History of law reform in fields of sex and race discrimination and impact of EC law.

In this lecture I will look at the history of law reform in the fields of gender and race discrimination and the unforeseen influence of European Community law. Harry Street¹ did much to promote antidiscrimination legislation in the influential report which he published in 1967, together with Geoffrey Howe, Q.C., and Geoffrey Bindman.² I have described elsewhere³ how the Street Committee came to be created as an important part of a strategy devised by Roy Jenkins, Mark Bonham-Carter, myself and others to secure the enactment of effective legislation to combat racial discrimination. The Street Report made recommendations which were novel and radical in the context of existing English law, and at a time when racial injustice was not widely perceived as a problem in this country. On the basis of a survey of United States and Canadian legislation, Street proposed a statute which was broad in scope, and which would be administered and enforced by a powerful anti-discrimination Board. The report also recommended that conditions should be inserted in government contracts requiring a wide range of affirmative duties on contractors, and that the Board should be responsible for supervising compliance with these conditions.

1993/1994 (8): Sir Leon Brittan, Institutional development of a European Community [1992] P.L. 567

Present and future relationships between member states and Community institutions.

THE European Community is unlike any other regional political or economic institution. It is not a United States of Europe, nor even a United-States-in-the-making. Nor, however, is it a mere intergovernmental organisation to promote co-operation between nations. It combines elements of both models. On the one hand, it draws strength and depth from what is best in the experience of nations: their separate cultures, languages, histories, traditions and identities. On the other hand, it seeks, through a common institutional and legal framework, to overcome what has been most destructive about nation states: the trade barriers they erect against one

another; competitive currency devaluations; aggressive nationalism; mutual suspicion; and, in the last resort, war.

1992/1993 (7): Lord Browne-Wilkinson, The infiltration of a bill of rights [1992] P.L. 397

To what extent constitutional change necessary to protect individual freedom.

ALTHOUGH the movement for constitutional reform appears to be gathering momentum, the date at which such reform will take place remains in the indefinite future. In this article, I address the question, "what rights do we in the United Kingdom currently enjoy of the kind which a Bill of Rights would be designed to protect?"

1991/1992 (6): Thijmen Koopmans, European public law: reality and prospects [1991] P.L. 53

"The State regulates our lives more than ever before." THAT was the opening sentence of Harry Street's Hamlyn lectures delivered in 1968. He added, characteristically, that this development had a tremendous effect on "all our institutions, and not least on the law"; we should, therefore, consider how our legal institutions adjust to changed circumstances, in particular to what Street called "the growth of the Welfare State."

1990/1991: There was no Harry Street Lecture in the 1990/1991 academic year.

1989/1990 (5): Sir Gordon Borrie, The regulation of public and private power [1989] P.L. 552

FORTY years ago I began my third year as an undergraduate student in the Law Faculty of this university and one of the options I chose in October 1949 for my third year LL.B. course was Administrative Law. We were a small group of six or seven students taking that subject and we were most fortunate in having Harry Street as our teacher. I found it a fascinating subject and the course was the beginning for me of a lifelong interest in the interplay between law and politics, and between the courts and government. Following graduation, I did research under Harry Street for an LL.M. and in due course wrote a thesis entitled: "The declaratory judgment as a method of review of administrative action." But as a preliminary to my research I was privileged to read the proofs of the first edition of Griffith and Street's book, *The Principles of Administrative Law*. Textbooks on administrative law have proliferated in the intervening years but in 1951, the first edition of Griffith and Street was a seminal event. It is to my mind a happy continuation of the link between these two scholars that John Griffith delivered the first Harry Street lecture in 1985 and is now the distinguished Chancellor of this university.

1988/1989 (4): Tony Weir, Governmental liability [1989] P.L. 40

The theme of this fourth Street Lecture imposed itself, at least in the French sense: Harry Street wrote a marvellous book on Governmental Liability at a time (1953) when, by recent standards, it hardly existed, and also a great textbook On Torts, now admirably refurbished by Margaret Brazier, one of his many devoted pupils.

1987/1988 (3): Sir Douglas Wass, Checks and balances in public policy making [1987] P.L. 181

THE theme I have taken for this lecture, that of checks and balances in public policy making, is one that I believe that Harry Street would have thought worthy of attention. His concern was principally with the checks and balances which are intended to protect the rights of the individual, safeguards which largely have to be found in legal codes and procedures. My concern is with something rather different. Important as it is to have enshrined in our legal system a set of rules which protect the individual from arbitrary action by the state, it is just as important that our political system should contain safeguards which protect society from the state.

1986/1987 (2): Sir Harry Woolf, Public law - private law: why the divide? A personal view [1986] P.L. 220

THIS article concerns the protection of the public from the activities and inactivities of public bodies and I must now add the protection of public bodies from the activities and inactivities of other public bodies. Professor Street had some harsh things to say about the lack of initiative of the English judiciary particularly with regard to developing the law so as to protect personal privacy. However, I doubt whether he would make the same complaint in relation to the part played by the judiciary over recent years in supervising the activities of public bodies.

1985/1986 (1): Professor J.A.G. Griffith, Judicial decision-making in public law [1985] P.L. 564

In this article three cases are discussed which illustrate a problem caused by the adjudication of the courts in matters concerning the policies and actions of Governments and hence the public interest. Each case is assessed as an exercise in decision-making. These cases are *C.C.S.U. v. Minister for the Civil Service* (1984) 3 All E.R. 935, *Secretary of State for Defence v. Guardian Newspapers* (1984) 3 W.L.R. 986, and *Bromley L.B.C. v. Greater London Council* (1983) 1 A.C. 768.