



GOVERNMENT

Monitoring Parliament

As a consequence of the number of requests we receive here at Runnymede for information on the progress of certain debates and bills through Parliament, we've asked **Omar Khan** to provide Bulletin readers with information periodically on how government is legislating for race equality-related matters. This article lays the foundations for what will become a regular series of parliamentary monitor reports.

Without public knowledge of parliamentary debate and bills democracy does not fulfil its function. Since the advent of the Internet, Government is better placed to provide relatively accessible and comprehensible information for anyone wishing to examine the form and extent of parliamentary activity. Indeed, the www.parliament.uk website offers full texts of current and past bills as well as Hansard's records of debates and minutes of committee meetings. Furthermore, there are some helpful explanatory files that offer guidance to the intricacies of parliamentary rules and procedures.

Despite the comprehensive material on the government's website, it can be difficult to unearth material of particular interest. The sheer volume of information provided often makes it difficult and frustrating to keep on track, except when researching the specifics of a particular bill.

For the purposes of this first contribution to the Bulletin, I decided to look at the Committee system, where some of the more important decisions about legislation are made, and to list most of the current standing and select committees. Second, I've summarised some important issues in two pieces of legislation introduced at the end of November, namely the Courts Bill (Lords) and the Criminal Justice Bill (Commons). While both have received some attention in the media, they have far-reaching

implications for the future of the law in Britain, even if the full consequences remain somewhat unclear.

The Committee System

Committees are important to the passage of legislation: bills are seriously scrutinised by these small bodies, which have various powers of recommendation and amendment, before they are returned to Parliament. While the committee stage can undoubtedly improve the specification and consistency of a bill, their workings are often opaque. What follows is some clarification of how they function, based on an examination of Committee websites, information files for www.parliament.uk and responses from the House of Commons information office.

There are two sorts of committees: Standing Committees and Select Committees. These are quite different bodies and their membership, rules and procedures differ as well. Standing committees (with membership drawn from amongst Members of the House of Commons and from the House of Lords) are usually assembled when a particular bill is being considered, and exist only for the duration of that bill. Select committees (HoC membership only), on the other hand, are chosen for the duration of Parliament and usually track the 'form' of a particular government department. For example, the Home Affairs Select Committee examines issues considered by the Home Office,

while the Foreign Affairs Select Committee shadows the Foreign and Commonwealth Office.

Select Committees

As stated in the Government's own publication: 'Select committees are investigative committees which mostly proceed by taking evidence and making reports on their findings' – i.e. they interview outside experts as well as Government Ministers, and their minutes and reports are regularly updated on the relevant website.¹

Members receive no additional payment for their Committee time. They will usually hire an outside (paid) specialist to act as an advisor and to support the chair in running the committee. The first stage of gathering evidence begins when the chair, in consultation with the advisor, decides whom to ask for evidence – usually relevant experts or organisations. The public is allowed to submit evidence at this stage, as advertised on the parliamentary homepage. Although not all submissions earn similar consideration by all committees, this stage offers the British public an opportunity to contribute to legislation, and should probably be taken up by more of us.

Government Ministers, Private Secretaries and Official Opposition spokespersons are not allowed to be nominated to Select Committees, presumably limiting the amount of bias. The work of select committees is well described in the government factsheet:

A [select] committee selects a topic or series of topics for inquiry. It may begin by having private briefings and taking specialist advice. It then embarks on a process of information gathering, taking oral and written evidence. Normally, Government Ministers and officials will give evidence at some stage. The oral and

¹ See the government website factsheet at www.parliament.uk

written evidence is published (sometimes omitting material on the grounds of confidentiality). In addition, most inquiries lead to the committee making a report to the House which usually includes recommendations, most of which will be addressed to the Government. The Government is expected to reply to a report within two months of publication.

This explanation is complicated by the fact the Commons and the Lords have separate select committees, reflecting the different divisions in governmental duties. To further complicate matters there are also six 'joint select' committees with membership drawn from both Houses.

Standing Committees

Not only do most standing committees consider only a single

piece of potential legislation, they proceed more like a debate in Parliament, with Government and Opposition benches facing each other. (Remember, too, that there are no standing committees in the House of Lords.) Since it is early in the life of this Parliament, no standing committees have been established to consider public bills for the 2002/3 session. Below are some of the committees from the 2001/2 Parliament:

Bills before Parliament

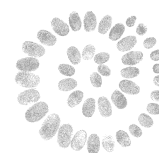
Parliament's website maintains an up-to-date list of bills currently before the Commons and Lords. The list on p.16 is taken from early December 2002, and further information can be found in the Weekly Information Bulletin:

While it is important for legislation to be precise and effective, it is also vital that in a representative democracy citizens

understand the decisions taken on their behalf by politicians. As an example of some of the material available on the website, and to demonstrate the importance and utility of examining these bills carefully, I have considered the Courts Bill (Lords) and Criminal Justice Bill (Commons). This has also been an area where Runnymede has made recommendations in the past.²

Courts Bill

The Courts Bill in the House of Lords presents some changes in judicial matters and primarily implements many



GOVERNMENT

² Such as Runnymede's response to the Home Office on the RR(A) Act (15 May 2001; and covered to some extent in the Runnymede Bulletin no. 326, June 2001) and the proposals contained in the Parekh Report (2000: 133-9).

Standing Committees (SCs) from 2001/2 Parliament (now disbanded)

British Overseas Territories Bill [Lords] (SC D)
Civil Defence (Grant) Bill (SC E)
Commonwealth Bill (SC C)
Divorce (Religious Marriages) Bill (SC D)
Export Control Bill (SC B)
Football (Disorder) (Amendment) Bill (SC A)
Homelessness Bill (SC A)
Housing Benefit (Withholding of Payment) Bill (SC B)
International Development Bill [Lords] (SC D)
Justice (Northern Ireland) Bill (SC F)
NHS Reform and Health Care Professions Bill (SC A)
Nationality, Immigration and Asylum Bill (SC E)
Police Reform Bill [Lords](SC A)
Proceeds of Crime Bill (SC B)
Sex Discrimination (Election Candidates) Bill (SC A)

HoC Departmental Select Committees

Culture, Media & Sport	Northern Ireland Affairs
Defence	Science and Technology
Education and Skills	Scottish Affairs
Environment, Food & Rural Affairs	Trade and Industry
Foreign Affairs	Transport, Local Government and the Regions
Health	Treasury
Home Affairs	Welsh Affairs
International Development	Work and Pensions

HoL Select Committees

Animals in Scientific Procedures Select Committee	EU: Environment, Agriculture, Public Health and Consumer Protection (Sub-Committee D)
Committee for Privileges	EU: Law and Institutions (Sub-Committee E)
Constitution Committee	EU: Social Affairs, Education and Home Affairs (Sub-Committee F)
Delegated Powers and Regulatory Reform	Liaison Committee
Economic Affairs Committee	Procedure Committee
EU Select Committee	Religious Offences Committee
EU: Economic and Financial Affairs, Trade and External Relations (Sub-Committee A)	Science & Technology Sub-Committee I
EU: Energy, Industry & Transport (Sub-Committee B)	Science & Technology Sub-Committee II
EU: Common Foreign and Security Policy	Science & Technology Select Committee (Sub-Committee C)



recommendations made in Sir Robin Auld's Review of the Criminal Courts in England and Wales (Oct. 2001), which the Government accepted in the White Paper Justice For All (17 July 2002).

The bill is in nine main parts, as

Selection of Current Bills before Parliament

Arms Control and Disarmament (Inspections) Bill [HoL]

Courts Bill [HoL]

Crime (International Co-operation) Bill [HoL]

Criminal Justice Bill

European Parliament (Representation) Bill

European Union (Implications of Withdrawal) Bill [HoL]

Extradition Bill

Local Government Bill

Public Services (Disruption) Bill [HoL]

Regional Assemblies (Preparations) Bill

Voting Age (reduction to 16) Bill [HoL]

described in the Overview:

1. Maintain the Court System
2. Justices of the peace
3. Magistrates' Courts
4. Court Security
5. Inspectors of court administration
6. Judges
7. Procedures, rules and practice directives
8. Miscellaneous
9. Final provisions

As in the Criminal Justice Bill discussed below, there is great concern for streamlining and efficiency, and the bill is expected to 'deliver decentralized management and local accountability within a national framework of standards and strategy direction'.

Much of the bill explains the provisions for hiring members of the courts system, whether they be justices of the peace, magistrates, security guards, inspectors or judges. This is an area where monitoring by ethnicity could contribute to improved interaction between the criminal justice system and black

and minority ethnic Britons. The Lord Chancellor is given a great deal of power in determining the standards for all of these appointments under clause 2(1): the Lord Chancellor 'may appoint such officers and other staff as appear to him appropriate to the purpose of discharging his general duty'.

The ultimate arbitration of the Lord Chancellor is further affirmed in clauses 4, 10, 14, 16, 17, 21, 31, 39, 46, 53, 58, 67, 73, 79, 97 and in the additional schedules, often referring specifically to the provisions in 2(1). While it is undoubtedly important that qualified individuals familiar with the law are employed in sensitive positions, observers concerned with race issues will be familiar with the tendency for unspecified conventional hiring practices to exclude black and minority ethnic people. Unfortunately, the Race Relations (Amendment) Act excludes 'judicial and quasi-judicial bodies' from many of its requirements, but it seems likely that the results of such practices will at least be informally monitored, on behalf of the Lord Chancellor and the Courts.

Runnymede, in its response to the Home Office Consultation on the RR(A)A,³ of course called for this body to be included in the list of public bodies required under the general duty to monitor for ethnicity, and this remains a key position for us.

Criminal Justice Bill

This bill has received far greater attention than the courts bill and contains a number of measures that will be immediately familiar to much of the British public. Like the Courts Bill, Lord Auld's Report and the White Paper Justice for All played a large part in the drafting of this bill, as did John Halliday's 2001 Report Making Punishments Work: report and review of the sentencing framework of England and Wales.

Although the Government has suffered defeats in the Lords in its

attempts to limit trials by jury, this bill retains a commitment to reducing abuses of the jury system by repeat offenders. The following quote indicates the broader perspective of the Government on the very popular public issue of crime and punishment:

[The bill] 'aims to improve the management of cases through the courts by involving the CPS in charging decisions, by reforming the system for allocating cases to court, and by increasing magistrates' sentencing powers so that fewer cases have to go to Crown Court ... [the bill is] designed to ensure that criminal trials are run more efficiently and to reduce the scope for abuse of the system... It will ensure the wider involvement of the community as a whole by reforming rules on jury service, allow hearsay evidence where original source cannot be present or where the judge would otherwise consider appropriate. [from www.parliament.uk website]

The bill is divided into 14 parts, and a selection of some of the specific bills will indicate the shape of reform. In part 1, 'Police and Criminal Evidence', the bill asserts the need for new provisions for stop and search as well as the use of street bail. There are also new provisions for warrants to enter and search as well as an extension from 24 to 36 hours as the limit to detainment without charge. All of these provisions, particularly stop and search, should be further monitored to consider their potentially discrepant impact on black and minority ethnic Britons, especially given concerns raised about racial bias in stop and search procedures in the past.

Part 2 concerns 'Bail', which recommends that all detainees who test positive for class A

³ Op cit. note 2.



drugs and refuse drug treatment be denied bail. It also introduces the concept of 'street bail'. In parts 3 'Criminal Cautions' and 4 'Charging, etc', the draft bill recommends that the CPS and DPP be more involved in deciding standards in these instances.

The 5th part, 'Disclosure', demands that accused give more detailed defence statements but also that prosecutors disclose any relevant information. Specific provisions are laid out regarding how and why procedures may be made in parts 6-8: 'Allocation and Transfer of Offence', 'Trials of indictment without a jury' and 'Live Links' (i.e. through television). While defendants are presently allowed the right to appeal, prosecutions are not – a situation that is altered in part 9, 'Prosecution Appeals'. All of these provisions will have an impact on defendants, who may need additional information on the criminal justice system to understand their rights. The possibility that bail, cautioning, disclosure, trial by jury or prosecution appeal reforms put undue burdens on specific community members should be assessed through specific monitoring, including by ethnicity.

Public discomfort with double jeopardy has always been balanced with a sense that justice may not have been realised in certain cases. In part 10, 'Retrial for Serious Offenders', the bill makes the fundamental and presumably popular change to allow retrial of serious offenders, namely for cases involving murder, manslaughter, rape or firearms, but not for common law offences. The bill suggests that this consideration will be made only in cases carrying life sentences. It may provide a means for reopening the Stephen Lawrence case if new and compelling evidence is brought to light.

At present, certain statements are inadmissible as evidence in a court of law. Section 11, 'Evidence', lays out grounds

where it would be possible for an individual's 'bad character' to be examined by the court. The report on the Damilola Taylor case and the review chaired by Dr John Sentamu, bishop of Birmingham (both published in the week of 9 Dec) concur on the need for a fresh approach to how evidence is taken and transmitted. The DPP report recommends: allowing juries to hear evidence of a kind currently excluded; the defence to reveal its evidence to opposing barristers before trial; professional assessment of the reliability of evidence; and ensuring that in cases where media cash rewards are offered the evidence is not compromised. The Sentamu report criticises the trial process rather than police errors. Will the criminal justice bill deal squarely with the issues raised in both these timely reports?

The final substantive section, 'Sentencing', states that in the past reasons have not been provided for the size of sentencing. The bill lists four main reasons for the first time:

1. punishment
2. public protection
3. crime reduction
4. reparation

Significantly, racially motivated crimes are listed among those that can impact the length of a sentence. This section also spells out new provisions on community service and allows courts to suspend custodial sentences. While it asserts minimum terms for dangerous offenders, recent moves in the Lords have also limited the power of the Home Secretary to establish such sentences. The final sections 13 and 14 deal with 'Miscellaneous' and 'General' issues, including giving further support to help anti-social youth.

Runnymede and other organisations have often noted that black and minority ethnic individuals are treated differently at every stage of the criminal justice

system, from initial cautioning, to arrest, to bail, to charging, at plea-bargaining, through the courts, to appeals, to sentencing, and finally regarding the duration of time served. Although it is impossible to determine the effects of all of these new provisions on black and minority ethnic Britons, it is important that the criminal justice system remain as neutral as possible. The individuals who staff the system should also be accountable for their decisions. As with the Courts Bill, Runnymede would like to see monitoring done at as many stages as possible in order to make sure that well-intentioned changes do not lead to discriminatory consequences.

Readers' Responses Requested

In the next Bulletin we would like to investigate the activities of various committees, including the reports they put out, that are directly related to race equality issues. We will also begin to examine how community organisations can involve themselves more in lobbying at the appropriate stages. We would like readers to contact us at Runnymede with your views on what you would like us to cover in this Parliamentary monitor section. □

One Scotland, Many Cultures

Subtitled 'A small country, not a country of small minds', this media campaign by the Scottish Executive ran from September into early November 2002. Founded on research which showed the majority of people in Scotland believed themselves not to be racist, but with reported racist incidents in Scotland continuing to increase, the campaign aimed to raise public awareness of racist attitudes and behaviour. Through TV, cinema, radio and billboard advertising the campaign's message, launched by First Minister Jack McConnell and Margaret Curran, Minister for Social Justice, promoted the idea of 'a modern Scotland of many cultures' in which there is 'no place for racism' 'We all have a duty to challenge racism and prejudice, whatever form it takes ... to make Scotland a better place', said McConnell. CRE Scotland were closely involved in the development of the campaign.