

Criminal Justice without Human Rights? Remembering the Past, and Predicting the Future, of Police Interrogation and the Law of Improperly Obtained Evidence

Howard League for Penal Reform conference on 'What is Justice? Re-imagining Penal Policy'

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Few would have predicted that the issue of a 'UK without Convention Rights' would be seriously debated less than fifteen years after the introduction of the HRA, and yet the issue could not be 'more timely or topical', as recently admitted by Lord Dyson, the Master of the Rolls. It is against this background that the paper will pose the question of the role of human rights in determining what can and cannot happen in the criminal process. But rather than hypothesising at theoretical level, it will take the examples of *police interrogation* and *the law of improperly obtained evidence*, and will remember their past: what did these look like at a time when questions relating to suspects' rights were generally viewed as impertinent, and was there change with the emergence of a human rights culture under the ECHR? By looking back, the paper will also make it possible to look forward, into a post-apocalyptic future of a UK criminal process that would sit outside the ECHR. Comparative examples from Scotland and France will further illustrate the positive impact of the ECHR, while examples from the law of police interrogation and improperly obtained evidence in the United States and Greece will more generally highlight the inextricable link between human rights and the criminal process, thus exposing as paradoxical efforts to separate the two.