

reminder of principle, had not effected any significant extension of or change to the certainty embodiment as long understood at common law.

The appellants contended the uncertainty prevailed over the constituents of gross negligence manslaughter as an additional specific ingredient of the offence was that the jury had to decide whether the defendant's conduct amounted to a crime. However, in their Lordship's judgment the primordial identification of differences between criminal and civil liability arose in the context of illustrating that the burden on the prosecution went beyond proof of negligence for which compensation would be payable. In essence, the legitimate question for the jury was whether the defendant's behaviour was gross negligent and consequently criminal. When properly evaluated, this was

not a question of law, but one of fact, for decision in the individual case. There was certainty in our substantive principles. The ingredients of the offence had been clearly defined and the principles decided by the House of Lords in *Adomako*. The offence of gross negligence manslaughter was not incompatible with the Convention since there was no uncertainty so as to offend against either Article 7, or against any principle of common law. The spatial reach of the Convention, as regards substantive criminal law, has once again been shown to be of *de minimis* impact.

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Cutting the Sinews of Crime: how Anti-Money Laundering Measures can help Combat the Trafficking of Women and Children for Prostitution

Sally Ramage and Andy Sinclair

Abstract

This two-part article looks at the crime of trafficking of women and children and the connected crime of money laundering. Part I discusses the Proceeds of Crimes Act 2002 (POCA) and the impact of this and other recently enacted statutes on prosecutions in trafficking cases. Recent research in the UK has shown that, despite police reassurances and some reports such as *The Economist's* September 2004 article on pornography and trafficking – which argued that only a “*very small proportion of women [working in prostitution] are trafficked*”¹ – research shows that there is a large and growing problem of children, aged 13 to 16, brought to the UK to supply the pornography market and the clothing sweatshops and ethnic restaurants². Part I of this paper also reviews recent UK, international and EU-wide measures against people trafficking and asks what else can be done to combat this most odious form of organised crime, while Part II (which will appear in a future issue of *The Criminal Lawyer*) will look in more detail at the link with money laundering and will consider how measures and techniques used to counter money laundering can be practically applied to combat trafficking-for-prostitution.

Introduction

It is a sad irony that while the year 2004 marked UNESCO's international Slavery Abolition Year³, designed to commemorate the 19th century struggle against slavery, at the beginning of the 21st century

Europe has become central to a slave trade that may be new but is every bit as vile – the trafficking of women and children for the purposes of prostitution. Unconfirmed reports that child survivors of the Indian Ocean tsunami have been targeted by sex traffickers⁴ have also fuelled international outrage at this grave crime against humanity.

Powerfully depicted in Channel Four's October 2004 TV drama “Sex Traffic”⁵, the trafficking of women and children is an organised criminal activity in which victims are transported from Africa, South America, Asia, Middle

- 1 Sex is their business, *The Economist*, September 2, 2004 http://www.economist.com/opinion/displayStory.cfm?story_id=3151258 (as at January 1, 2005)
- 2 Research by ECPAT UK (End Child Prostitution and the Trafficking of Children for Sexual Purposes www.ecpat.org.uk) found that social services departments in 32 out of the 33 London boroughs are concerned that they have a problem with the trafficking of children. Quoted in Social Services Parliamentary Monitor, November 8, 2004 p.3 http://www.cadmus.co.uk/back_issues/6860.pdf (as at January 1, 2005)
- 3 2004 International Year to Commemorate the Struggle against Slavery and its Abolition, UNESCO http://portal.unesco.org/culture/admin/ev.php?URL_ID=13974&URL_DO=DO_TOPIC&URL_SECTION=201 (as at January 1, 2005)
- 4 Pope: “Trafficking of children vile”, CNN, January 6, 2005 <http://edition.cnn.com/2005/WORLD/europe/01/06/tsunami.pope.children.reut> (as at January 7, 2005)
- 5 See <http://www.c4i.tv/external/highlights.asp> (as at January 1, 2005)

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East and Eastern Europe to Western Europe⁶ and North America⁷ to be used as prostitutes, pickpockets, slave workers and as couriers of contraband goods ranging from stolen automobiles to endangered species, narcotics and weapons.⁸ The sad fact is that demand exists within the UK for trafficked women and children – both in prostitution and in other forms of criminal exploitation.⁹ In December 2004 Sir Stephen Lander, the former MI5 boss who now chairs the Serious Organised Crime Agency, described people smuggling into the UK as an even bigger problem than drug trafficking¹⁰. All these activities fall within the scope of transnational organised crime¹¹. The broadening of transnational criminal activities is due in part to technological (the advent of the Internet) and geopolitical changes (e.g. the end of the Cold War) which criminals have exploited to sustain a marked expansion in illicit markets and informal economies.

Sex trafficking, linked as it is to other forms of crime ranging from software piracy to illegal immigration, generates huge profits¹². When these illicit and illegal profits are introduced into the formal economy and into legitimate businesses e.g. through the purchase of business properties, aircraft, stocks and shares etc this falls within the definition “money laundering” laid down in POCA Part VII¹³.

The women and children

Not all the women and children that are trafficked are caught and transported against their will. Some are women who pay the traffickers¹⁴ to get them to Western countries, thinking that they would have a better life, only to be forced into prostitution with no hope of reporting it because they themselves are illegal immigrants in the new countries. In the commercial sex trade, women and children are trafficked from Africa, Asia, the Middle East, the Former Soviet Union and Latin America¹⁵ and end up in brothels and “massage parlours” in Western countries, namely the Netherlands¹⁶, Western Europe¹⁷, United States¹⁸, Greece, Spain, Switzerland,¹⁹ Australia²⁰, Germany²¹ and Austria²².

In the Western world, the sexual exploitation of children is even more covert than the trafficking of adults, not least because of the opprobrium with which even hardened criminals regard those involved in sex crimes against children. Although the CIA has estimated the number of children trafficked to the US in 2003 as being only several thousands, estimates from studies done for UNICEF in 1997 revealed 300,000 child prostitutes in the United States.

The United Nations has estimated that 1.2 million children²³ are trafficked each year²⁴. This is not the total figure for all child prostitutes in the world as there are an extra estimated one million children in their own countries who are sexually exploited by tourists who travel to the children’s countries for the purposes of paedophilia, making the probable number of abused innocent minors around 2 million.

The United Kingdom Legislation against Trafficking

Successive UK governments have failed to acknowledge the organised crime that is trafficking-for-prostitution and,

in policies driven more by tabloid xenophobia than any serious effort at the suppression of crime, have viewed the trade’s victims simply as illegal immigrants and petty

- 6 International Organisation for Migration, (2003), “Trafficking of women to Italy for Sexual Exploitation”.
- 7 Centre for the Study of Intelligence, (2000), “International trafficking in Women to the United States: A contemporary manifestation of slavery and organised crime”, Intelligence Monograph.
- 8 For detailed definition see Mueller .G .W, (1998), “Transnational Crimes”, Uncertainty Scenarios.
- 9 United Nations Office of the High Commissioner for Human Rights, (2001), “The Race Dimensions of trafficking in persons”, July 11, 2001
- 10 Hansard, December 7, 2004: Column 1063 – see <http://www.publications.parliament.uk/pa/cm200405/cmhansrd/cm041207/debtext/41207-12.htm> (as at January 1, 2005)
- 11 Mueller .G .W, (1998), “Transnational Crimes”, Uncertainty Scenarios
- 12 The profits from people trafficking worldwide are estimated to be around GBP 5 billion a year. See comments by John Bercow MP in Social Services Parliamentary Monitor, November 8, 2004 p.3 http://www.cadmus.co.uk/back_issues/6860.pdf (as at January 1, 2004)
- 13 Proceeds of Crime Act 2002 (2002 c.29) Part VII <http://www.legislation.hms.gov.uk/acts/acts2002/20029-k.htm#340> (as at January 1, 2004)
- 14 Smith .P, (1997), “Human smuggling : Chinese migrant trafficking and the challenge to America’s Immigrant Tradition”, Washington: Centre for Strategic and International Studies.
- 15 Redo .S, (1998), “International Annals of Criminology”, United Nations
- 16 Department of Correctional Services, Ministry of Justice, Netherlands
- 17 *The Economist*, 19 April, 1997
- 18 Winer. J , (1997), “Alien smuggling elements of the problem and the US response”, Transnational Organised Crime Journal, January 1997
- 19 Robinson. C, (1994), The International Conference on Trans-national Migration in the East-Pacific Region: problems and prospects’ ARCM, January 1994
- 20 Pope. V, ““Trafficking in women”, US News and World Report, 7 April, 1997.
- 21 Mugar , I, “Trafficking in women for sexual exploitation”, Geneva: International Organisation for migration, June 1996
- 22 *ibid*
- 23 Venezuela has dismissed as politically motivated US criticism of its record on tackling human trafficking, arguing that this is tied-in with the Bush administration’s wish for “regime change” and an end to the radical leftist government of Hugo Chavez. See “Venezuela Slams US over Human Trafficking sanctions”, Top News, September 13, 2004; “Venezuela Reacts to US sanctions for alleged trafficking of women and children” <http://www.venezuelanalysis.com/news.php?newsno=1362> (as at January 1, 2005) and “Washington’s Human Trafficking Charges Drag Down US-Venezuela Relations” <http://www.venezuelanalysis.com/articles.php?artno=1290> (as at January 1, 2005). Venezuelan complaints that US policy smacks of double standards appear to be borne out by reports of serious trafficking problems in countries regarded more favourably by Washington, such as Venezuela’s close neighbour Colombia. For background on people trafficking in Colombia see See Brown. R, (2004), ‘Death by deadline’, *Financial Times Supplement*, 2 October, 2004.
- 24 Musacchio.V, (2004), ‘Migration connected with trafficking and prostitution: An over-view. ’, German Law Journal Vol 5 No. 9.

criminals to be deported. This was demonstrated in November 2004 in the answer given to Keith Vaz MP when, in the wake of Channel Four's moving documentary on the subject "Sex Traffic", he asked a Parliamentary question concerning people smuggling from Moldova to the UK and for details of prosecutions and convictions. Home Office minister Des Browne replied as follows:

"Until the recent introduction of legislation specifically criminalising trafficking, prosecutions for trafficking have been for a variety of associated offences. These include amongst others facilitation of illegal entry, kidnap, false imprisonment and living off immoral earnings. The UK keeps detailed statistics on all court proceedings in a national database and publishes these on an annual basis. While information on convictions for all these offences is available, it is not possible to determine which of the prosecutions for associated offences related to cases of trafficking."

Accordingly, it can be difficult to locate even the most basic information on cases involving trafficking²⁵ as in the past it has not been explicitly dealt with by statute and so cases arising from trafficking have been charged under a wide range of other criminal laws, making them difficult to locate even with the benefits of access to online legal databases. One extremely valuable tool for criminal lawyers, law enforcement officers and others who need to locate trafficking-related case law is the free newsletter of the London-based anti-trafficking organisation The Poppy Project (available from poppy@eaveshousing.co.uk)²⁶ Another useful review of trafficking cases in the UK is contained in the Coalition Against Trafficking in Women's "Factbook on Global Sexual Exploitation" available free online at <http://www.uri.edu/artsci/wms/hughes/uk.htm> (as at January 1, 2005)

Only within the past five years or so have Parliament, the courts and the police taken serious anti-people trafficking measures. The Government has established Reflex, a multi-agency taskforce involving the Association of Chief Police Officers (ACPO)²⁷. Crucially brothel keeping is now included in POCA and is defined as criminal conduct. Encouragingly, in a recent case the Court of Appeal upheld confiscation orders in a trafficking-for-prostitution case²⁸, orders which been issued pursuant to the Criminal Justice Act 1988 s.71 (now repealed and replaced by POCA). However many human rights NGOs are critical that not enough money has been set aside by the Assets Recovery Agency's Recovered Assets Fund to support the victims of trafficking. Thus when Lord Beaumont of Whitely raised this matter in a Parliamentary question he was told that: "no data exist about the confiscation of assets of those engaged in this practice [people trafficking]."²⁹ Given this response Lord Beaumont might be forgiven for concluding that the real purpose of the Recovered Assets Fund is to pay for the Assets Recovery Agency³⁰.

The Sexual Offences Act 2003 allows a maximum punishment of 14 years imprisonment for facilitating prostitution within the United Kingdom and defines the word 'prostitute'. Other measures are found in the Nationality, Immigration and Asylum Act 2002 and the Sexual Offences Act 2003. Section 145 of the Nationality,

Immigration and Asylum Act 2002 (NIAA) covers the offences of arranging or facilitating the arrival, travel or departure of a person in the UK for the purpose of control over prostitution, while the Asylum and Immigration (Treatment of Claimants, etc.) 2004 contains further measures purportedly aimed at combating trafficking.³¹ Section 143 of NIAA Act lays down a maximum penalty of fourteen years' imprisonment. The Sexual Offences Act 2003 (SOA) deals with trafficking within and out of the UK for the purposes of sexual exploitation and the maximum sentence for such offences is also fourteen years. SOA also contains measures against buying the sexual services of a child, and causing, facilitating or controlling the commercial sexual exploitation of a child in prostitution or pornography. Although SOA has been criticised for being concerned solely with trafficking for sexual purposes and for not including measures to boost international police cooperation³², it is at least reassuring that the courts have latterly shown an increased willingness to impose stiff sentences on those convicted of these offences, with the Court of Appeal raising one sentence from ten to 23 years imprisonment.³³ The first trafficking convictions secured pursuant to SOA were handed down by Mr Justice Bullimore to two Albanian nationals in December 2004 at

25 The Thatcherite Centre for Policy Studies has claimed that statistics on the true extent of people smuggling in the UK have fallen into a "knowledge black hole" Sergeant, Harriet "Welcome to the Asylum", Centre for Policy Studies, 2001 p.6 <http://www.cps.org.uk/pdf/pub/26.pdf> (as at January 1, 2005)

26 <http://www.poppy.uk.com> (as at January 1, 2005)

27 ACPO Press Release 58/03, November 13, 2003 <http://www.acpo.police.uk/news/2003/q4/reflex.html> (as at January 1, 2005)

28 *R. v Haisman (Sharon)* [2003] EWCA Crim 2246 [2004] 1 Cr. App. R. (S.)

29 Hansard June 18, 2002: Column WA69 <http://www.parliament.the-stationery-office.co.uk/pa/ld199900/ldhansrd/pdvn/lds02/text/20618w01.htm> (as at January 1, 2005)

30 See more detailed criticism contained in "Compensation for trafficked women: why aren't powers being used by authorities?" The Poppy Project, Issue No.3, September 2004 <http://www.poppy.uk.com> (as at January 1, 2005)

31 Refugee organisations have criticised some recent purported anti trafficking legislation, especially the Asylum and Immigration (Treatment of Claimants, etc.) 2004 s.2

<http://www.legislation.hmso.gov.uk/acts/acts2004/40019—a.htm#2> which criminalises entry into the UK without a passport. The Refugee Council for example argues that this is in effect an anti-asylum provision disguised as anti-trafficking measure – see http://www.refugeecouncil.org.uk/downloads/briefings/ia_act04/ia_act04_brfg01.pdf

32 "Sexual Offences Bill falls short in providing full protection for children, says UNICEF UK", February 10, 2003 http://www.unicef.org.uk/press/news_detail.asp?news_id=59 (as at January 20, 2005)

33 *Attorney General's Reference (No.6 of 2004)*, Re; sub nom *R. v Plakici (Luan)* [2004] EWCA Crim 1275; [2005] 1 Cr. App. R. (S.) 19; (2004) 148 S.J.L.B. 541; *The Times*, May 6, 2004. For commentary see Hunter, Humfrey "Sex slave sentence raised to 23 years" *Daily Telegraph*, April 30, 2004 (Online edition)

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Sheffield Crown Court³⁴. Law enforcement officers may also wish to consider the Criminal Justice Act 1987 s.2, which can be used by the Serious Fraud Office for compulsory questioning if trafficking involves serious financial fraud. Also, Part VII of POCA can be used to conduct financial investigations into suspected traffickers' financial affairs and to seize assets (in much the same way as the previous legislation relied on in *Haisman*).

As to the international conventions, although not a party to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others 1949, in the year 2000 the UK did however sign the UN Convention against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Meanwhile Anti Slavery International, a leading anti trafficking NGO and one of the world's oldest human rights organisations, is currently campaigning for the UK to sign and ratify the UN Convention on the Protection of the Rights of All Migrant Workers and Their Families 1990.³⁵

Conclusion

Many human rights NGOs have criticised Western governments for a lack of political will in tackling trafficking and for pursuing policies on asylum, immigration, counter-terrorism and criminal justice which are driven more by racism and xenophobia than by any serious desire to combat international organised crime. Without doubt these criticisms, expressed by the Refugee Council amongst others, are in large part justified – witness the way in which the Government seized on the Morecambe Bay Chinese cocklers tragedy to enact Section 2 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 purportedly as an “anti-trafficking” measure but one whose practical consequences can only exacerbate the problems faced by trafficking's victims. Despite these misgivings, the recent anti-trafficking interventions by authorities in both the UK and at EU level³⁶ are in general to be welcomed. However if these authorities wish to show that they are serious in tackling trafficking they must place the interests of the trade's victims at the centre of policy-making and law enforcement practices³⁷. In Part II of this article we shall focus in more detail on the application of

counter money-laundering techniques to this most heinous of criminal activities.

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Andy Sinclair LLM, Editor, The Criminal Lawyer*

The fee from this article has been donated to The Poppy Project, a London-based anti-trafficking body – specialising in research and practical support for the trade's victims.

Some online sources:

The Poppy Project <http://www.poppy.ik.com> Anti-Slavery International <http://www.antislavery.org/homepage/antislavery/trafficking.htm> Coalition Against Trafficking in Women: <http://www.catwinternational.org> ACPO Guidance on Policing Prostitution <http://www.acpo.police.uk/policies/Prostitution%20Strategy%202004%20-%20Rel%20133.doc> ACPO Guidance on Child Prostitution http://www.acpo.police.uk/asp/policies/Data/child_prostitution.doc Protocol between HM Customs and Excise and ACPO regarding Child Sex Abusers http://www.acpo.police.uk/asp/policies/Data/customs_protocol.doc US State Department's Office to Monitor and Combat Trafficking in Persons. <http://www.state.gov/g/tip> Child-Watch Phuket (Thai based anti-trafficking and child protection organisation) <http://www.phuket.com/child-watch> Asia Acts Against Child Trafficking (regional human rights NGO set up to combat child trafficking throughout South-east Asia) <http://www.stopchildtrafficking.info>

34 Stokes, Paul “Immigrants jailed for sex trafficking” *Daily Telegraph* December 24, 2004 (Online edition)

35 <http://www.stophumantrafficking.org/writemp.html> (as at January 1, 2005)

36 See Candappa, Mana “Prevention And Fight Against Trafficking: Institutional Developments In Europe” Centre for Research in Ethnic Relations, University of Warwick 2003 http://www.emz-berlin.de/projekte_e/pj37_1pdf/UK.pdf (as at January 1, 2005)

37 See “Ten Points to Combat Trafficking” The Poppy Project, Issue No.3, September 2004 <http://www.poppy.ik.com> (as at January 1, 2005)

“Break in, make my criminal justice policy

Richard Thompson

In a shock development our new Home Secretary Charles Clarke has made a decision that is both commendable and intelligent. In refusing to allow the ranting of the redtops¹ to determine the law on self defence against burglars Mr Clarke has shown that (arguably unlike his predecessor) he is at least willing to *listen* to what criminal law practitioners have to say. But how did New Labour get itself in such a tangle and what exactly does the criminal law have to say about this important issue?

The question of how far householders should be permitted to go in self-defence against burglars refuses to go away. A year ago listeners to BBC Radio 4's Today programme reacted to the Tony Martin case by voting for a bill permitting householders to use “any means” to defend their homes. Labour MP Stephen Pound had promised to champion the listeners' choice in Parliament

1 “Tougher intruder laws ruled out” BBC News

via a private members bill but backed off when the result was known – saying that it endorsed “the slaughter of 16 year old kids”.

The issue was then taken up by Conservative MP Roger Gale and his Criminal Justice (Justifiable Conduct) Bill reached a second reading debate in the Commons in April 2004. Under the current law a householder may use such force as is (objectively) reasonable in the circumstances as he (subjectively) believes them to be. Mr Gale’s bill would have permitted a householder to use *any* force if he (subjectively) believed that another person was a trespasser and he was acting in self-defence. A householder could therefore use any degree of force against a burglar provided he himself considered it reasonable, however irrational and disproportionate it may appear to others. The bill foundered after failing to win Government support, with Home Office minister Fiona Mactaggart commenting that it would have created a “spiral of violence and retaliation”.

The debate was re-ignited by Metropolitan Police Commissioner Sir John Stevens following two separate incidents in October and November 2004 in West London in which householders were fatally stabbed in their homes by intruders. TV celebrities Ozzy and Sharon Osbourne also fell victim to burglary and held a press conference in which they perhaps understandably expressed some disappointment with Britain. The Conservatives were then quick to be seen to seize the initiative and MP Patrick Mercer is set to table a Householder Protection Bill intended to amend Section 3 of the Criminal Law Act 1967 to provide that a householder would not be guilty of an offence unless the degree of force used was “grossly disproportionate” and this was, or ought to have been, apparent to the person using such force. The leave of the Attorney General would be needed to bring a prosecution. Although the Government had previously opposed reform, in response to taunts from Michael Howard, Tony Blair felt obliged to concede that the proposals were now “worth looking at”.

Those who advocate change tell us that the public are confused as to their rights under the current law, but fail to realise that they themselves are the source of the confusion. Much of the media debate in recent weeks has been driven by those who would have us believe that the householder who uses force is guilty in the eyes of the law unless he can prove his innocence in the face of a criminal justice system which is stacked against him. The creation of uncertainty in people’s minds amplifies their insecurities out of all proportion with highly effective and predicable results. It’s all the fault of that pesky Human Rights Act. The discovery of ‘evidence’ of a link between dwelling burglary and Al Qaeda is surely not far away.

The current law already makes allowances for defensive action taken in moments of unexpected anguish and by acknowledging that such action cannot be weighed to a nicety in difficult circumstances. In the highly unlikely event that a prosecution lawyer decides that criminal proceedings are in the public interest the defendant householder need only introduce reasonable doubt into the case against him to escape conviction. In January 1985 householder Kenneth Noye inflicted multiple and fatal stab

wounds on a detective constable intruder in the grounds of his home and was acquitted of murder by a jury. If the law already gives householders a licence to kill in extreme cases then why does it need changing?

Those pressing for change point to the ‘Oklahoma Law’ which led to a drop of over 40 per cent in the burglary rate in the US. This states that “any occupant of a dwelling is justified in using any degree of force, including but not limited to deadly force, against... [an intruder... when the occupant has a reasonable belief that [the intruder] might use any physical force, no matter how slight, against any occupant of the dwelling.”

Attractive though this may at first appear, the law surely has a deterrent effect only when combined with the American right to bear arms. An Oklahoman burglar puts himself at risk as soon as he crosses the boundary of a property from a trigger-happy householder with a rather hazy grasp of the law. In any confrontation the burglar knows that there is no legal deterrent to prevent the householder shooting him dead, no questions asked, if he so much as moves a muscle. The firearm-backed Oklahoma law combines a substantial risk of death or serious injury with a high risk of being held at gunpoint until the police arrive, which must weigh heavily on the mind of the would-be burglar.

In the UK a hand-held implement would be the most likely substitute for a gun. The risk of injury to the confronted burglar would not be so immediate or serious when compared to the firearm scenario. The use of hand-held weapons requires hand-to-hand contact – which would often become a battle of physical strength. The have-a-go householder without a gun would put himself at great risk and be far less ready to use force despite his licence to do so. In addition, the possibility for the burglar to escape would be far greater. A burglar desperate to escape may take his chances against the householder with a hand-held weapon regardless of the householder’s licence to use it. With the firearm-factor removed the Oklahoma law loses its potency.

One legitimate criticism of the current regime is the length of time taken to decide whether a householder should face criminal proceedings. This could perhaps be met by the introduction of a short limitation period or other fast-tracking measures to apply in such cases.

According to Roger Gale MP the purpose of his bill was to address the “perception that the criminal justice system has moved towards treating the criminal as the victim.” The straightforward solution is simply to attempt to dispel this erroneous perception that is the root cause of the problem. Unfortunately, those who advocate change would prefer to be complicit in perpetuating the myth. The misinformation feeds public paranoia causing the calls for reform to become louder. The louder they become the more grateful the public will be to those in politics, the media and elsewhere for saving them from certain peril and seeing off those woolly liberal lawyers who we all know are just out to profit from vagaries in the law.

The 1988 US presidential candidate Michael Dukakis was asked in a televised election debate whether, if his wife were raped and murdered he would want the death penalty for her killer. Dukakis replied that he had always opposed

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the death penalty, there was no evidence that it was a deterrent and there were more effective ways in which to deal with violent crime. Many commentators believe that his passionless and measured reply to such an emotive question cost him not only the debate, but also sealed his defeat in the presidential campaign against George Bush Snr. The criminal justice system is in the business of clarifying and narrowing issues and determining them in a passionless but measured way. It is unfortunate that the motives driving many of those who sought – and continue

to seek² – greater powers of self-defence for householders appear to prevent them from doing the same.

Richard Thompson, Solicitor, Oxford

2 January 12, 2005 http://news.bbc.co.uk/1/hi/uk_politics/4167865.stm (as at January 13, 2005). "Clarke U-turn on beating burglars is outrageous" *The Sun* <http://www.thesun.co.uk/article/0,,2001340002-2005022740,00.html> (as at January 20, 2005)

NOTES

CONFERENCES:

"I'm a Criminal Lawyer-how is the Human Rights Act helping my practice? Human Rights and Developments in Criminal Law" organised by the Human Rights Lawyers Association – 6pm, 9 February 2005, Reading Room, Law Society, 113 Chancery Lane.

To register contact SMontgomery@Barcouncil.org.uk

"Criminal Justice Act 2003: Criminal Bar Association Lecture" (6 hours CPD) 5 February 2005 (repeated on 26 February 2005) at Church House, Westminster. To register contact JBradley@BarCouncil.org.uk

ID FRAUD, FAKE DOCTORS, EXPERT WITNESSES AND PERSONATING POLICE OFFICERS:

The appalling case of "Dr" Barian Baluchi, a criminal who fraudulently passed himself off as a medical doctor and succeeded in conning the Home Office and an impressive array of regulatory bodies and professional associations including the Law Society and the General Medical Council can only serve to fuel growing public mistrust of expert witnesses, particularly in medico-legal cases. Despite having no medical qualifications Baluchi succeeded in acting as an expert witness and was listed in the Law Society's directory as such. Falsely claiming to be an expert in post traumatic stress disorder (PTSD), Baluchi stole the identity and qualifications of Antonio Carrillo-Gómez, a genuine doctor who practices in Madrid, and acted in thousands of immigration and asylum claims as well as a number of criminal cases. Full reports at http://www.theregister.co.uk/2005/01/19/fake_immigration_doctor

and <http://www.timesonline.co.uk/newspaper/0,,171-1445649,00.html>

Equally bizarre is the case of Michael Edwards-Hammond, reported in the *Daily Telegraph*. Recently arrested at Windsor Castle for personating a police officer Edwards-Hammond has in the past been given a motorcycle escort by the Metropolitan Police, after falsely claiming to be a surgeon on his way to save the life of a child. He has also persuaded police to search innocent members of the public, and had an Asian family taken into custody. Edwards-Hammond was even responsible for having several harmless pedestrians held at gunpoint near Downing Street. In his defence Edwards-Hammond has claimed that in exposing security breaches he has performed a public service, adding that he was considering calling fellow fancy dress enthusiast Prince Harry as a defence witness.

Full reports at http://www.theregister.co.uk/2005/01/19/fake_immigration_doctor and <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2005/01/16/nhamm16.xml>

FULCHESTER CONSTABULARY (Sponsored By Alcopops Plc)

As we go to press the Government has announced plans to impose a levy on the drinks industry to help pay for the costs of policing town centre disorder, which critics claim will rise after 24 hour drinking is permitted under the proposed licensing reforms contained in the Licensing Act 2003 and which come into force on February 7, 2005. Critics have expressed dismay that it took a sustained campaign by such hotbeds of anti-capitalist radicalism as the *Daily Mail*, ACPO and the Tories to force New Labour to concede even this minor obstacle in the path of its newfound corporate friends in the pro-alcohol lobby. See **Drinks firms 'to pay for police'** http://news.bbc.co.uk/1/hi/uk_politics/4193663.stm

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