To Know The Law And Observe It Well - Magna Carta And Criminal Justice

KALISHER LECTURE - 19 MARCH 2024

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Introduction

1. It is a privilege to have been asked to give this year's Kalisher lecture. As you may have spotted, I have taken the title for my lecture from Chapter 45 of Magna Carta. It is less well-known than Chapters 39 and 40, which taken together guaranteed access to justice. The former, as we all know, provided for what is now referred to as the right to fair trial – to justice according to law, while the latter prohibited the Executive – in the guise then of King John – from interfering in the delivery of justice, and thus marked an initial step towards what we would now call separation of powers.

2. Guaranteeing access to justice and separation of powers is a necessity for any country that is committed to the rule of law. Chapter 45 is the provision within Magna Carta that gave life to the guarantees. It did so because it guaranteed what your former President, Lord Judge, and Anthony Arlidge KC, both very much-missed, once described as the '*first necessity of regular justice*.'[1]

3. And what was that? It was the requirement that King John only appoint judges, amongst others involved in the delivery of justice, who knew the law well. And just as importantly, that he would only appoint those who would observe it well. Without judges who know the law and will give effect to it, justice according to law is simply not a realistic possibility. And in England and Wales, since we draw our judiciary from the legal profession, that guarantee necessarily implies another commitment: that we have a robust legal profession that too knows the law and observes it well.

4. So my theme for this year's lecture – drawn as it is from Magna Carta – focuses on knowing the law and observing, that is delivering it, well.

[1] A. Arlidge & I. Judge, *Magna Carta Uncovered*, (Hart, 2014) at 56.

To know the law and observe it well

5. My starting point then is knowing the law. We all, as judges, magistrates, and lawyers practising in the criminal courts need to know the law and know it well. That is not just because criminal law is an intricate web of the common law, statute, and sentencing principles. It is not just because it is liable to amendment and revision on a regular basis by Parliament. Nor is it because knowing and understanding it well is essential if the victims of crime and defendants are to have justice and see it done. All those who work in the criminal justice system, of course, need to know the law in these senses.

6. But to know the law fully requires more than simply learning and applying the law in these senses. It goes further than that. If I can borrow from Oliver Wendell Holmes, it is one thing to know the logic of the law. But the law is more than its logic, or its black letter rules - whether they are set out in the common law or legislation. Holmes referred to the life of the law being experience. As he put it,

   > '*The law embodies the story of a nation's development through many centuries, and it cannot be dealt with as if it contained only the axioms and corollaries of a book of mathematics.*'[2]

   To know the law requires us to know its spirit. And the spirit of our law has always been one that draws on a diversity of experience. The common law is one that is made of many threads, and we have drawn them historically from many sources. Sometimes we have hidden those threads, such as when we have relied on Roman law.[3] Sometimes we have acknowledged the influence explicitly, such as when we have drawn on continental jurists to develop the law of contract.[4] More recently, we have been more explicit and clear when we are interweaving learning from across the world.[5]

7. It is for this reason, amongst others, that the contribution made by the Kalisher Trust to the criminal bar, and to legal practice generally, cannot be underestimated. The very idea

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[2] O. Wendell Holmes, *Common Law*, (1881) at 1.
[3] *Acton v Blundell* (1843) 12 M & W 324; 152 ER 1223; *Coggs v Bernard* (1703) 2 Ld Raym 909; 92 ER 107.
[4] *Taylor v Caldwell* (1863) 3 B & S 826; 122 ER 309; [1863] EWHC QB J1.
[5] See, for instance, the survey of authority in Lord Toulson, *International Influence on the Common Law*, (2014) <https://www.supremecourt.uk/docs/speech-141111.pdf>.

that it seeks to promote, that '*talent comes in many forms and from all backgrounds*'[6] is one that must be at the heart of any justice system that seeks to do justice to all. It is all the more important where the spirit of the law is one based on learning from diverse experiences. As Lord Judge (as ever) so rightly put it,

> '*It is vital to recruit talented and able young lawyers from every social background so that the [legal]profession, and ultimately the judiciary, reflects the diversity of the society it serves.*'[7]

The strength, the vitality of our criminal justice system depends upon attracting and retaining individuals who are independent-minded, who exemplify diversity of thought and background, who understand that justice must be available to all. The Kalisher Trust has played, and plays, an invaluable role in securing that strength and vitality. It is very much my hope – and firm expectation – that it will continue to do so. It is by doing so that we will be able to ensure that entry to the profession, and then ultimately the judiciary, will continue to demonstrate that diversity of experience and thought that is crucial if it is to remain in robust health.

8. But what of observing the law? Magna Carta did not just require knowledge of the law. It required those who gave effect to it to observe it well. This requirement is, for judges and magistrates, emphasised on appointment when all swear the judicial oath. It is well-known. We are required to swear that we '*will do right to all manner of people after the laws and usages of this realm, without fear or favour, affection or ill will*'. These are not mere words. They reflect how judges must approach their duty fairly and without prejudice or bias. They also reflect another requirement. As Lord Judge put it, that they must act with moral courage. That they should be able to stand up to pressure, covert or overt, direct or indirect. That they should be able to '*make decisions that will be unpopular with politicians or the media, or indeed the public. . .*'.[8] This aspect of the oath is perhaps more plainly made out by an earlier version, one that was noted by another Chief Justice,

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[6] See https://www.thekalishertrust.org.

[7] Lord Judge cited at https://www.thekalishertrust.org/what-people-say.

[8] Lord Judge CJ, *Diversity Conference Speech*, (2009), '*Judges must also have moral courage – it is a very important judicial attribute – to make decisions that will be unpopular whether with politicians or the media, or indeed the public, and perhaps most important of all, to defend the right to equality and fair treatment before the law of those who are unpopular at any given time, indeed particularly those who for any reason are unpopular.*', cited in Lord Clarke, *Selecting Judges: Merit, Moral Courage, Judgment and Diversity*, (2009) The High Court Quarterly Review, 5(2), 49

Sir John Fortescue in the 1400s. In the *Laudibus Legum Angliae*, he recorded the oath as requiring a judge to,

> '*swear . . . to . . . do justice without fear or favour, to all men pleading before him, friends and foe alike . .. Even though the king should command him . . . to the contrary*.'[9]

In the 1400s, the King commanding to the contrary was not something to take lightly. For a Chief Justice or other judge to fail to obey could mean loss of office. Until the Act of Settlement in 1701, this was a significant risk. The Stuart Kings were particularly keen on removing judges who did not do as they were told. Chief Justice Coke was, notably removed, for informing James I that he would not obey an order from His Majesty to stay a claim. His immediate successors were also removed for political reasons.[10] Of course, at that time, removal from office might be the least of a judge's worries…

9. Today, the question of commands from the sovereign or, rather, the Government, is not something that features in our constitutional settlement. Committed to the rule of law, our Constitution understands that Parliament, Government and Judiciary should each respect their own constitutional roles and jurisdictions.[11] The principle remains, though, that the judiciary treat friends and foe alike – that they should secure equal access to justice, that they should not discriminate or permit prejudice to taint their decisions, and that they should not accede to the commands of the powerful remains at the heart of the judicial oath.

10. It might be thought then that moral courage might not be as important a feature today as it once was in the past. Direct command may not be an issue. However, we live in a world where pressure can be brought to bear in many ways. We all remember the press coverage of the Brexit litigation, which culminated in *R (Miller) v Secretary of State for Exiting the European Union*.[12] With the judges in the Divisional Court referred to as '*Enemies of the People*' in the national press and suggestions of marches on the Supreme

[9] Sir John Fortescue cited in J. McIntyre, *The Judicial Function*, (Springer, 2019) at 163.
[10] J. Baker, *An Introduction to English Legal History* (OUP, 2019) at 177-179.
[11] *M v The Home Office* [1992] QB 270 at 314.
[12] [2017] UKSC 5, [2018] AC 61.

Court. And before that, during the period when super-injunctions were causing headlines, suggestions were made in Parliament that judges should be threatened with imprisonment for making such orders.[13] It would be odd to suggest that an attempt to put pressure on the delivery of justice was not going on in these circumstances. More overt pressure is evident in other jurisdictions. A particularly telling one was the campaign called 'Jail 4 Judges'. This was a campaign in the United States, the aim of which was to intimidate judges so that they decided cases in line with the campaigners' views.[14]

11. It is true to say that judges have to have broad shoulders. That they must take a robust approach to such matters. That they cannot allow themselves to be troubled by campaigns, social media or the media. Nor can they allow themselves to be influenced by parties to litigation. Just as they cannot permit their personal views or prejudices to sway their decisions. But judges do not simply obtain the moral courage necessary upon appointment. There is no secret sauce in the judicial oath in that respect. Rather moral courage is something that judges and magistrates develop in their careers before appointment. Where the judiciary is concerned, we do so as lawyers. It took moral courage, for instance, for John Cooke to take the instruction left to him by his leader, the Attorney-General who had a judicial bout of illness at the time, to prosecute Charles I. It took moral courage for him to carry on with his opening statement after the King tapped him forcefully with his cane as he began.[15] It took moral courage for him to continue when the King commanded him to stop.

12. That is an exceptional example. It is one, however, that illustrates the independence of the Bar. Counsel in courts across England and Wales muster their courage every day. Whether it is facing a difficult cross-examination, representing an unpalatable client irrespective of their personal views, the offence with which they are charged or a cause or organisation that they represent, courage is required. It equally takes moral courage to

[13] S. Doughty, *Let's threaten them with prison': MP goes to war with judges who hand out gagging orders*, (Daily Mail, 7 April 2011).
[14] A. Hellman, *Justice O'Connor and "The Threat to Judicial Independence": The cowgirl who cried wolf?*, 39 (2007) Arizona State Law Journal 845.
[15] G. Robertson, *The Tyrannicide Brief*, (Chatto & Windus, 2005) at 17.

intervene when a judge or magistrate may have overstepped the mark and turned a challenging tribunal into an improperly hostile one.

13. It is, I am happy to say, a key feature of the Bar and particularly the criminal Bar. And is one of the reasons why justice is done in the magistrates' courts and the Crown Court. Without advocates who are willing and able to act in all cases, for both prosecution and all defendants – again without fear or favour – we would not have a criminal justice system that was worthy of the name. Without that courage, justice cannot and would not be done. For judges and magistrates to observe the law well, you as practitioners must not only learn the law, but also its spirit, and that includes the courage to give effect to the spirit of independence of thought and action in pursuit of justice for all.

14. But let me be clear, moral courage also has a limiting role to play. It lies behind the fact that judges and magistrates must set aside their own social, religious or political views in trying cases. It lies behind the cab rank rule, which requires advocates to take instructions no matter what their views of their client may be. As judges we adjudicate according to the law. As advocates, you must ensure that everyone has access to justice according to the law. If advocates do not, and they pick and choose their clients are by reference to their own social, religious or political views, then law and justice become an arbitrary concept. It is essential then that we, just as the Kalisher Trust does so well, encourage into the profession, and particularly the criminal Bar, not only diversity of thought and experience, but equally those with and who will develop the courage to do justice to all.

Evidence-based reform

15. I want to turn now to the question of reform. It is something that the justice system has seen rather a lot of over the last twenty years. The civil justice system has undergone three significant reforms: the Woolf reforms of the late 1990s; the Jackson Cost reforms of the first decade of this century; and the ongoing HMCTS Modernisation or reform programme, which began in the mid-2010s. The family justice system has undergone reforms arising from the Family Justice Review and the Children and Families Act 2014. It is currently undergoing further reform arising out of, for example, the Pathfinder Pilot and

the President of the Family Division's Transparency Review. And the criminal courts? They have not been left out.

16. The starting point is the Auld Review.[16] That was commissioned by Lord Irvine LC in 1999. It was required to carry out a broad review into

> '*. . . the practices and procedures of, and the rules of evidence applied by, the criminal courts at every level, with a view to ensuring that they deliver justice fairly, by streamlining all their processes, increasing their efficiency and strengthening the effectiveness of their relationships with others across the whole of the criminal justice system, and having regard to the interests of all parties including victims and witnesses, thereby promoting public confidence in the rule of law.*'[17]

This was followed in 2015 by Sir Brian Leveson's *Review of Efficiency in Criminal Proceedings*.[18] It too was required to carry out a compendious review of practice and procedure within the criminal courts and the Criminal Procedure Rules. Its aim was, once again, to improve the criminal justice system's operation, not least its efficiency. One limitation Sir Brian noted was that he was not required, nor could he properly, consider legislation concerning criminal justice. His review was not, as he put it, a Royal Commission nor did it have the scope of the earlier Auld Review.[19] We have to go back to 1981 and 1991, respectively, for Royal Commissions, the former on Criminal Procedure, with the latter – the Runciman Commission – focused on criminal justice more broadly.[20] The latter, specifically, looked at what Sir Brian has referred to, accurately, as the criminal justice ecosystem.[21] Its remit ranged from the conduct of police investigations, the role of expert evidence, access to legal advice for defendants, to the court's powers, the role of the Court of Appeal and how to deal with miscarriages of justice. It was a holistic review.

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[16] Sir Robin Auld, *Review of the Criminal Courts of England and Wales*, (HMSO, October 2001).
[17] LCD Press Notice 386/99 - 14 December 1999 (https://www.criminal-courts-review.org.uk/pn14-12-99.htm).
[18] See https://www.judiciary.uk/wp-content/uploads/2015/01/review-of-efficiency-in-criminal-proceedings-20151.pdf.
[19] Sir Brian Leveson PQBD, *Review of Efficiency in Criminal Proceedings*, (Judicial Office, 2015) at 2.
[20] *The Royal Commission on Criminal Justice* (HMSO, Cm 2263) at i-ii.
[21] Sir Brian Leveson, *The Pursuit of Justice*, (Criminal Cases Review Commission Annual Lecture 2017) at [47] <https://www.judiciary.uk/wp-content/uploads/2018/04/speech-leveson-ccrc-lecture-april-2018.pdf>.

17. Against this background of large-scale reform, there have been other changes. The most obvious across all three jurisdictions is that which has been and continues to be effected by digitisation. The HMCTS modernisation programme applies digital technology across our justice systems. Guidance for the criminal courts continues to be updated via the *Crown Court Compendium*; first introduced as recently as 2016 as the successor to the *Crown Court Bench Book,* which was itself the successor to the Judicial Studies Board's *Specimen Directions*, which were first issued in 1987.[22] An example of incremental improvement via reform and revision over a long period of time. Similar discrete reforms are exemplified by the introduction of written routes to verdict, the aim of which is to assist jurors reach a fair decision by providing them direction on the law. Their introduction arose out of work carried out by Professors David Ormerod and Cheryl Thomas.[23]

18. That last example of reform points to a broader point. It was based on empirical research; specifically research on jurors.[24] A regularly noted criticism of reform of the justice system in general is that it is too often based on anecdote and not evidence.[25] For Plato, the unexamined life was not worth living.[26] Applying that, the point would be that the un-evidence-based reform is not worth having. Absent evidence what basis is there for knowing the exact nature of the problem, the exact nature of its likely cause, and therefore whether the proposed solution actually hits the mark. One benefit of the digitisation of our justice systems is that it ought to make available to us in much more readily accessible form data concerning their operation. That data cannot but be an

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[22] *The Crown Court Compendium* (Judicial College, 2023), Appendix 1 at 22-10 (https://www.judiciary.uk/wp-content/uploads/2023/06/Crown-Court-Compendium-Part-I-June-2023-updated-Feb-2024.pdf).

[23] *The Crown Court Compendium* (Judicial College, 2023) at vii to viii, and 1-5 to 1-7.

[24] C. Thomas, *Are Juries Fair?,* MoJ Research Series 01/10 (2010), C. Thomas, *Avoiding the Perfect Storm of Juror Contempt*, Criminal Law Review (2013) cited at *The Crown Court Compendium* (Judicial College, 2023) at 1-5.

[25] As Dame Professor Hazel Genn put it, for instance, in *Paths to Justice*, (Hart, 1999) at 1 '*It is perhaps remarkable that, in a period of unprecedented upheaval in the procedures for resolving civil disputes through the legal system, and historical alterations in the public funding of legal advice and representation, both the protagonists and opponents of change lack a solid empirical foundation for their respective positions*.' It is a point often repeated since.

[26] Plato, *The Apology of Socrates*, 38a5–6.

important source of information for empirical scrutiny, and hopefully fully informed reform recommendations.

19. By empirical study I do not, however, mean conducting experiments similar to those that formed the basis of Channel Four's recent staging of a genuine murder trial: *The Jury: Murder Trial*. Interesting television as it might have been, it is difficult to see what exactly it could tell us about how a genuine jury approaches the criminal process. A better approach to determining how a real jury operates can, however, be seen from the United States. There they continue to rely on juries in both civil and criminal trials.

20. In civil proceedings in the United States, the option exists for parties to opt for what is called a Summary Jury Trial.[27] Despite its name, it does see the jury actually determine the case. The aim of the process is to enable the parties to set out their respective arguments on the issues with some limited presentation of evidence, but no cross-examination of live witnesses, at an early stage of the proceedings. It is a form of alternative dispute resolution. The jury gives its verdict at the end of the summary process, which takes no more than a day. The parties can then ask questions of the judge and the jury. The intention here is to enable the parties to gain an idea of how a real jury would approach their case, both through the verdict given and the answers to questions posed after the verdict.

21. The key aspect of this process, which otherwise does not differ in its purpose and operation from Early Neutral Evaluation – an ADR process well-established here – is that the jury believe they are genuinely trying the case. They do not know it is an ADR process. They are summoned to jury duty, just as they would be if they were to try a civil or criminal case. They thus approach the trial process as a real jury. It is only after they have finished giving their verdict that they are informed the process was actually a state-run ADR process. The rationale: to ensure the jury approach the process as they would a real trial. Important lessons could be learnt from this process. The most obvious one would be how

[27] See, for instance, A. Woodley, *Strengthening the Summary Jury Trial: A Proposal to Increase its Effectiveness and Encourage Uniformity in its Use*, (1997) Ohio State Journal on Dispute Resolution (Vol. 12) 541.

often does the summary jury reach the same decision as the jury that deals with it at trial, in those cases where the claim does not settle after the summary jury trial. The percentage of coincidence of decision must be high, otherwise the summary process would have little value as a prompt to negotiated settlement. But, more importantly, it could lead us to scrutinise the utility of various aspects of the civil litigation process. How much disclosure is needed, for instance, for accurate decision-making?

22. We, obviously, cannot mirror that approach here in civil cases. Nor can we introduce such a process into criminal proceedings. Rather the point is that in the United States they have the means to learn from actual jurors in a way that we do not. They have a means to test their assumptions about the civil trial process. They have the means to conduct effective empirical studies based on the approach taken by such juries. They have the basis on which to conduct a plurality of studies. Why is this important? We can illustrate that by reference to two well-known psychological experiments.

23. The first is the Stanford Prison Experiment. This was carried out by Philip Zimbardo in 1971.[28] It involved recruited students to play the roles of prisoners and prison guards in a mock jail over two weeks. The intention was to examine the psychology of imprisonment on prisoners and guards.[29] In essence, its focus was how situations and institutions effect human behaviour. The experiment was abandoned after six days after it had become apparent that the participants who had been allocated to play the part of prison guards were engaging in increasingly harmful and abusive behaviour.

24. The second is a series of experiments conducted by Stanley Milgram on the psychology of obedience.[30] As well-known as the Stanford Prison Experiment, this involved recruiting members of the public to take part in a study focused on memory and learning. As part of that ostensible exercise they were to administer electric shocks to other individuals, who

[28] For his account of the experiment, see P. Zimbardo, *The Lucifer Effect – How good people turn evil,* (Random House, 2007).
[29] Ibid at xv.
[30] S. Milgram, *Behavioral Study of Obedience*, (1963) Journal of Abnormal and Social Psychology, 67 (4): 37 (https://web.archive.org/web/20150404094832/http://academic.evergreen.edu/curricular/social_dilemmas/fall/Readings/Week_06/milgram.pdf)

they believed were also volunteers. They were asked to give them increasingly powerful electric shocks as the experiment went on. The real focus of the experiment had nothing to do with memory or learning. Its real aim was to study the extent to which individuals would carry out acts that were contrary to their ethical values. Here this was tested by instructing them to inflict pain. As the electric shocks became increasingly powerful, it was testing the extent to which they would obey an instruction from an authority figure – the scientist in this case – which would lead to the death of the other volunteer. The subject of the experiment could see the voltage metre as they pressed the button to administer the shock, and could see when a lethal shock would be delivered. They could also hear the screams of pain of the other 'volunteer'. That is, until they could hear nothing. The conclusion: 65% of the volunteers would obey the instructions given up to a lethal shock of 450 volts.

25. The Stanford Prison Experiment was never completed. It has never been replicated, not least because of significant concerns about its compliance with ethical standards. Milgram's experiment has been replicated multiple times. It has been replicated with variations. It has been replicated by other psychologists,[31] although it too has been subject to criticism in terms of its design and ethical standards.[32]

26. Why focus on these two examples? The simple answer is that they illustrate two different approaches to learning, only one of which is properly effective. For all its shock factor, the Stanford Prison Experiment does not provide a sound basis for developing understanding – it had to be abandoned. The study of situational effects on human behaviour, particularly where it can lead to abusive behaviour, is an important area of study. But it needs to be the product of careful design, considered methodology, robust data, and a plurality of studies. Those studies need to be replicated. They need to be subject to rigorous academic scrutiny by other researchers, who test the assumptions, the methodology and the data. Variations of the study need to be carried out, to see their

[31] See, for instance, T. Blass, *The Milgram paradigm after 35 years: Some things we now know about obedience to authority* (1999), Journal of Applied Social Psychology, 29 (5), 955; J, Burger, *Replicating Milgram - Would People Still Obey Today?*, January 2009, American Psychologist, 1 <https://www.apa.org/pubs/journals/releases/amp-64-1-1.pdf>.

[32] G. Perry, *Deception and Illusion in Milgram's Accounts of the Obedience Experiments*, (2013) Theoretical & Applied Ethics. 2 (2): 79.

effect and, again, to test the original study. An approach much more akin to that adopted by Milgram and to which his study has been subject.

27. Over the last twenty years the justice system has, notwithstanding the general claim that reform progresses in the absence of evidence, been subject to some empirical examination. I have already mentioned Professor Thomas' ground-breaking work on jurors. Equally, the civil justice system has been subject to some empirical study, not least the work carried out by Professor Genn. And, of course, the Nuffield Family Justice Observatory has carried out very important work in that arena. If, however, we are to ensure that we nurture our justice systems, and particularly the jewel that is our criminal justice system, we need to go much further. We need more studies. More testing. More scrutiny. We need different approaches. More methodologies. More research and a wider range of researchers testing and challenging our systems. This will, of course, depend on the availability of access to more and better data, and access for researchers to that data. The strength exemplified by the Milgram example is that it rests on multiple researchers working in the same field. That is something we must foster. We cannot rest on the approach that opens up our system to scrutiny by a limited number of researchers. We need a plurality.

28. It is my view that we have much to learn from such scrutiny, not least where juries are concerned. Just as summary jury trials in the United States provide a basis on which to scrutinise the utility and accuracy of civil juries, scrutiny of criminal juries here will – I have no doubt - demonstrate the robustness of the criminal jury trial. It will also enable us to learn how we can improve jury decision-making, just as the summary jury trial could provide the means to test and learn how to improve civil jury trials. This type of scrutiny is one way in which we can try to embed a culture of continuous reflection and learning into our criminal justice process. It is, however, one that is focused on the practice and procedure of the courts. Might we need to go further? It may seem a long time ago, but in December 2019 the Conservative Party manifesto for the, then, General Election contained a specific commitment concerning the criminal justice system. It was this,

> '*We will conduct a root-and-branch review of the parole system to improve accountability and public safety, giving victims the right to attend hearings for the first time, and we will establish a Royal Commission on the criminal justice process.*'[33]

That was, of course, in the world pre-Covid. A lot has happened since then. As Professor Ormerod has put it, such a Commission '*could undoubtedly make a real difference*'.[34] As he has pointed out, a Commission could examine resourcing. It could examine all those aspects that were last comprehensively and holistically examined by the Runciman Commission in 1991. It could revisit questions left over from the Auld Review, such as whether to move to a unified Criminal Court. It could consider victims, not least where restorative justice is concerned. It could look to build on the success that has been the Sentencing Code by taking steps towards the development of a Criminal Code. And it could look at reform in the light of digitisation. And much more.

29. There is much to be proud of in our criminal justice system. There is also much that we can and could do to improve it. We should not shy away from scrutiny and proposals to improve what we do. In that way can we ensure that our justice system, and particularly our criminal justice system, is able to fulfil the State's primary duty: to protect its citizens.[35] If we want to make that 'real difference' it is perhaps something to which we might give real consideration.

30. Thank you[36].

[33] The Conservative and Unionist Party Manifesto (2019) at 19 (https://www.conservatives.com/our-plan/conservative-party-manifesto-2019).
[34] D. Ormerod, *A Royal Commission on criminal justice?*, Crim. L.R. 2020, 2, 101 at 104.
[35] Calvin's Case (1572–1616) 7 Co.Rep. 1a, 77 E.R. 377, Eng. Rep. at 386.
[36] I would also like to thank Dr John Sorabji for his assistance in preparing this lecture.