

# LIBERTY

PROTECTING CIVIL LIBERTIES  
PROMOTING HUMAN RIGHTS

## REFLECTIONS ON ZAHID MUBAREK CASE

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*“The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilisation of any country. A calm, dispassionate recognition of the rights of the accused, and even of the convicted criminal, a constant heart-searching by all charged with the duty of punishment...these are the symbols which measure the stored-up strength of a nation and sign and proof of the living virtue in it.”*

**Winston Churchill, 1910**

Those who campaign in politics and the media, to “end the Human Rights madness”, are usually shameless in the exploitation and recruitment of grieving parents for the cause. They would not find Mr and Mrs Mubarek such ready or attractive prey. But for the Human Rights Act, and its requirement that deaths in custody should prompt a full, public and independent inquiry in which families can participate, they would be left with a few crumbs of Home Office comfort. We would all be left with Prison Service apologies and very little revelation as to the catalogue of failure at every service, political and societal level that allowed one twenty year-old man to murder another who was locked in a cell with him courtesy of our penal system.

How often have you heard the suggestion that the notion of Human Rights in modern Britain is turning us all into rugged and selfish individualists? We ask what our “country can do for us” rather than the more positive JFK formulation. As those who hold or

aspire to power in our society serve up the choicest platitudes, a perennial favourite seems to be:

“There’s far too much talk of rights and not enough of responsibilities...”

This sound-bite rolls off the tongue with obvious ease. Action and reaction, ying and yang... Surely “common sense” dictates that for every human right there must be an equal and corresponding responsibility? Abrogate your responsibility, the logic follows, and lose your right. Human frailty and experience suggest that we (individuals and institutions), fail in the discharge of our responsibilities quite often. If a corresponding loss of rights to basic protection, dignity, equal and fair treatment ensues, the populists have developed a new perversion of human rights theory. These new rights may not be universal or fundamental but they would allow for hanging, flogging and the systemic abuse and neglect of those in prison. By contrast, the orthodox universal version respects the dignity even of those who have lost respect for themselves and others.

Under the contorted, contributions-based rights theory, only the model citizen need apply for protection. Zahid Mubarek with his all too familiar truancy, drug use and car crime would not be included. Any rights that he was born with or given by the political community would have been lost via his crimes and misdemeanours or left at the doors of Feltham where he was sent for his 90-day custodial sentence.

“Human rights belong to everyone”- I spend my life saying. The bitter reality is that in a modern politics so lacking in the “stored up strength” and “virtue” to which Churchill referred nearly a hundred years ago, some need greater recourse to their rights than others.

Inefficiency in the deportation system (particularly if it leads to “foreign criminals walking the streets”) will ultimately cost Ministerial jobs. The same is not true of inhumanity in the prison system.

Why did we allow a young non-violent Asian man to be locked in a cell (for twenty-three hours a day) with a “highly disturbed” young white man, whose racist and violent

thoughts had been well-displayed to prison service personnel? Mr Justice Keith's inquiry report offers damning answers at both macro and micro levels.

Racism, sadism and a lack of professional purpose were too rife in the prison system six years ago. How much better is the picture today? As long as our politics presents a comic-strip portrait of British society as neatly divided into "hard working families" worthy of protection and "neighbours from hell" worthy of nothing, young men like Zahid Mubarek will continue to fall through the cracks.

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