

LIBERTY MEMBERS' CONFERENCE AND AGM 2018
19 May 2018 at Woburn House, London

Resolutions passed

Motion 1: Facial Recognition

Liberty is committed to ensuring that technological innovations implemented by law enforcement are compatible with human rights.

This AGM notes that facial recognition technology has been used by police at festivals and football matches in recent years and that last year the Home Office announced plans to spend an additional £5 million on the software.

Facial recognition technology is a form of biometric surveillance. It is qualitatively different from CCTV and more akin to collecting DNA or fingerprints.

This AGM is deeply concerned about a growing and unchecked law enforcement reliance on technology that threatens to undermine peaceful protest, the freedom to associate and individual privacy.

This AGM is further concerned about the high level of inaccuracy associated with facial recognition algorithms and is particularly alarmed at evidence that the technology is significantly more likely to misidentify women and people of colour.

This AGM regrets the absence of any meaningful public or parliamentary debate around facial recognition cameras and notes with concern the lack of a legal framework governing their use. This AGM resolves to monitor the use of this and other emerging technologies by police.

This AGM further resolves to fight for:

- Greater transparency around the policies governing the use of facial recognition technology, as well as how images captured by facial recognition cameras are matched and stored;
- Strict regulation, including a legislative framework governing the use of this technology, which must reflect its potential to interfere with rights and freedoms;
- Independent testing of all facial recognition algorithms used by law enforcement for racial and other biases; and
- Independent oversight of the use of this technology.

Motion 2: Counter-terrorism and counter-extremism

This AGM notes with concern last year's announcement by the Government of a proposed new criminal offence of viewing extremist content online.

This AGM concurs with the Independent Reviewer of Terrorism Legislation that "legislating in the name of terrorism when the targeted activity is not actually terrorism would be quite wrong".

This AGM notes that there are already a broad range of criminal offences on the statute book, including offences targeting those who plan acts of terrorism, join terrorist groups or fail to disclose information which could assist in a terrorism investigation.

This AGM regrets that the proposed offence appears to criminalise conduct alone, without a meaningful requirement of intention, which runs contrary to important principles of criminal law. Further, this AGM notes that the available defence of 'legitimate reason' is narrow, and would not mitigate the grave risk that such an offence would chill free speech.

This AGM further notes that the definition of extremism included in Government guidance is dangerously loose and broad, compromising both legal certainty and freedom of expression.

This AGM resolves to fight the introduction of new laws criminalising thought and in particular to oppose any attempts to introduce an offence of viewing extremist content online.

Motion 3: Definition of Anti-Semitism

This AGM reiterates

Its abhorrence of antisemitism as a repellent undercurrent which persists across the social and political spectrum; and
Liberty's support for effective measures to combat antisemitism and all other forms of racism;

notes

the legal Opinion of Hugh Tomlinson QC which states that the International Holocaust Remembrance Alliance (IHRA) 'Working Definition of Antisemitism', adopted by the UK government in December 2016, is "unclear and confusing" and "has no legal status or effect"; and that the overriding legal duty of public authorities is to preserve freedom of expression;

that the guidance that is attached to the definition conflates criticism of Israel with antisemitism;

that the definition is being interpreted as saying that to describe Israel as a state practising apartheid, or to call for Boycott or Sanctions to be applied in defence of Palestinian rights, is an inherently antisemitic act that should be prohibited;

that the definition is being cited in attempts to deter, obstruct or prevent events that are critical of Israel, or support the legitimate rights of Palestinians;

resolves

that by blurring the previously clear understanding of the nature of antisemitism, the IHRA definition risks undermining the defences against it; and

that the definition's conflation of antisemitism with criticism of Israel and legitimate defence of the rights of Palestinians is a threat to freedom of expression. It regrets that some local authorities have already adopted it, calls on those that have done so to apply it with extreme caution, and calls on other public bodies not to adopt the definition.

Motion 4: Information Sharing for Immigration Enforcement

Liberty believes that immigration enforcement mechanisms must be humane, fair and non-discriminatory.

This AGM condemns the growing use of secretive data-sharing agreements to bolster the Government's 'hostile environment' immigration enforcement policies. This AGM notes with particular concern that:

- NHS Digital is sharing confidential patient information collected by frontline service providers with the Home Office to help it locate and deport undocumented people;
- The Department for Education is sharing children's school records collected by teachers and school staff for immigration purposes; and
- Secret information-sharing agreements have been drawn up between local authorities, charities and the Home Office to facilitate the deportation of homeless people attempting to access services.

This AGM further recalls Liberty's work in opposition to the inclusion of an exemption in the Data Protection Bill which relieves the Home Office and other agencies of their data protection obligations where they relate to activities to control immigration.

This AGM resolves to continue to fight against data protection exemptions and data-sharing agreements which create obstacles to access to vital services and rights for people – including children, patients and the homeless – and sacrifice privacy at the altar of hostility and in-country border control.

Emergency Motion: A Sustainable Justice System

Liberty is committed to a properly funded and sustainable justice system, including the provision of a properly funded and sustainable system of legal aid.

This AGM notes that, on 23 March 2018, the Criminal Bar Association felt compelled to propose that its members refuse instructions on all cases subject to a representation order (i.e. an order making provision for legal aid) dated on or after 1st April 2018.

This AGM further notes that the Criminal Bar Association felt compelled further to propose that its members decline to cover hearings for other barristers where a conflict of court dates arises (a “no returns” policy) from 25 May 2018.

This AGM notes that these actions have meant that a number of Defendants have had to represent themselves in the Crown Court.

This AGM notes that the actions of the CBA are part of a package of proposals being put by them with the aim of prompting the Government to engage effectively with their concerns – concerns which are widely shared.

This AGM believes that legal aid is a critical means of ensuring access to justice for marginalised groups and others who are similarly unable to pay privately for legal advice and representation.

This AGM further believes that a properly-funded and sustainable justice system is essential to the effective protection of human rights and civil liberties and demanded by the rule of law.

This AGM further believes that a failure properly to fund the justice system undermines attempts to improve the diversity of the legal profession and stifles the adoption and advancement of junior lawyers, who become the senior practitioners and judges of the future.

This AGM notes that the decision was taken in response to the Government’s proposal to implement a new funding scheme for those acting for criminal defence advocates in the Crown Court – the Advocates' Graduated Fee Scheme (AGFS) – which was a real-terms cut in funding.

This AGM further notes that the implementation of the AGFS was the latest in a decades-long series of cuts to criminal legal aid funding, estimated to be in the region of 40% in real terms and by governments of all colours.

The AGM further notes the Government’s insistence on “cost-neutrality” and commitment to cutting the legal aid budget by £600m by 2019/20.

This AGM notes that a number of “high-profile” trials of rape and sexual offences have recently collapsed as a result of failings in disclosure by the Crown Prosecution Service.

This AGM believes that such failings are a further symptom of the lamentable under-funding of the criminal justice system.

This AGM further believes that such failings are neither isolated nor confined only to complex prosecutions for sexual offences.

This AGM shares the view that “this is not about money for lawyers. It is the liberties of England that are at risk”.

This AGM concurs with the sentiment that the Law is Broken.

This AGM resolves:

- to stand in solidarity with all those who are fighting to fix the law;
- to continue to fight for a properly-funded and sustainable justice system, which has the confidence of those who depend on and work in it;
- to restate its absolute commitment to effective legal aid provision;
- to oppose further cuts to legal aid and public funding more generally which are incompatible with these resolutions.