

## **W201 The Individual and the State**

### **Questions on civil liberties and human rights**

1. An Act of Parliament gives the Home Secretary power to double any judicial sentence involving a sexual offence committed against a child. The Government had included the proposal in its election manifesto and believes it to be very popular with the electorate.

**1. Why might such an Act be unconstitutional?**

**2. Is there any judicial process under which such an Act might be challenged? Who might bring such a challenge?**

**3. Who do you think should have the last word on issues like this - Parliament or the courts?**

2. Someone is stabbed at a football ground. The suspect is seen to escape into a section of the crowd. Police cordon off that section and arrest everyone who fits the rough description of the suspect - 20 people in all. They are all taken to the police station and questioned for 40 hours until one of them (Mack) confesses.

**1. Do you think the action of the police is justifiable if it enables them to catch the offender?**

**2. Is the action of the police lawful?**

**3. Mack later retracts his confession claiming that he was bullied into making it. Should it be admitted at a trial as evidence of his guilt?**

3. The press burst into a hospital room and take a photograph of a TV celebrity who is recovering from an operation after a car accident. He applies for an injunction against the newspaper concerned to stop publication.

**1. Which convention right will assist his case?**

**2. Which convention right will the newspaper rely on?**

**3. Are there any restrictions on either right which might apply?**

**4. If there is a conflict between convention rights how is a court likely to resolve it?**

**5. Does it matter that neither party is a public authority?**

4. Herbert a member of a religious sect (whose beliefs involve rejection of all moral values) owns a bookshop. He is facing prosecution and forfeiture proceedings under the Obscene Publications Act 1959 for selling pornography.

**What Convention rights would be relevant to any prosecution?**

**How should the court take into account the HRA in deciding this case?**

5. A politician makes a speech at a public meeting demanding the repatriation of refugees when their home countries are safe for their return. There is a fight at the meeting. He proposes to repeat the speech at another meeting and the police warn him that they anticipate violence at the meeting.

**1. Do the police have the power to ban or otherwise control the proposed meeting? Do you think they should do so if they can?**

**2. The politician makes a speech in which he abuses ethnic minorities. There is no violence at the meeting but there are violent demonstrations throughout the country. Has the politician committed any criminal offence?**

**3. Do you think that the law applicable to these cases is compatible with the European Convention on Human Rights?**