Law Reform Revision

Why does the law need to be reformed?

There are a number of reasons why the law in England & Wales needs to be reviewed and reformed on a regular basis, these include:

- There is no unified code of law (i.e. all written down in one place) as there is in many European Countries
- English law has developed piecemeal (bit by bit) by various statues and the system of judicial precedent
- Judges can only reform the law on a case by case basis and only if a case on a suitable point of law comes before a high enough court in our appeal system
- Parliament has many other functions other than passing new laws; therefore at times reform of the law is given a low priority. This is particularly the case where reforming the law will not lead in an increase in votes for the Government!
- Many statues become outdated but are never repealed by Parliament

The Law Commission

This body was set up by the Law Commission Act 1965. It is a permanent body and its job is to keep the law under review, with a view to developing and reforming the law on a regular basis. It consists of five legal experts chosen from the ranks of the judiciary, legal profession and legal academics. Its main duties are to:

- identify areas of the law where reform is necessary
- codify the law
- repeal obsolete laws
- consolidate and modernise the law

The Law Commission is asked to consider specific areas of the law referred to it by the Lord Chancellor and may also choose areas to consider itself. Once it has researched the area of law it is considering it will produce a consultation paper to allow experts and politicians to make comments. It will then produce a final report which includes a draft bill if it considered a change in the current law is necessary.

Some Law Commission reports have resulted in new laws, for example, the Computer Misuse Act 1990, which created new offences relating to the hacking of computers. Another success for the Law Commission was the Family Law Act 1996 which modernised the law on divorce.

Some examples of legislation following their reports are the

- Unfair Contract Terms Act 1977, restricting the ability to limit or exclude liability in consumer contracts; the
- Family Law Reform Act 1987, removing the legal disadvantages attached to illegitimacy; the
- Children Act 1989, rewriting the whole of the law on children; the
- Computer Misuse Act 1990, introducing new criminal offences relating to the misuse of computers; and the
- Access to Neighbouring Land Act 1992, allowing the courts to make access orders giving people the right where necessary to enter onto their neighbours' land.

Effectiveness of the Law Commission
In the first 10 years of the Law Commission’s existence, it had a high success rate, with 85 per cent of its proposals being made law by Parliament. During the next ten years, however only 50 per cent of its suggested reforms became law. This lack of success was due to the lack of parliamentary time and an evident disinterest by Parliament in technical law reform. In recent times matters have improved and the Government has enacted more reforms put forward by the Law Commission.

Examples include:
- The Land Registration Act 2002 which was important for anyone selling or buying a house, flat or any other building or land as it modernised and simplified the method of registering land.
- Other examples include the Family Law Act 1996, the Trusts of Land and Appointment of Trustees Act 1996

However there are still many reports awaiting implementation. As a result of the Commission’s ongoing work, large areas of the law has been the subject of systematic investigation and improvement. Antiquated laws have been abolished, and new remedies devised appropriate for the times in which we live. Much has already been done, but there is still much more to do.

Some works and jobs of the Law commission

**Repeal and Consolidation**
Repealing statutes helps to make the law more accessible by getting rid of outdated legislation. Consolidation simplifies the law by drawing all existing statutes together into one new Act, e.g. Powers of Criminal Courts (Sentencing) Act 2000

**Codification**
Involves bringing together all the law on one topic into one source of law. Makes the law more accessible, easier to understand, gives consistency and certainty. However, a very detailed code may mean the law is too rigid; a very broad code may lead to uncertainty.

**Other Ad Hoc Agencies and Commissions**

**Royal Commissions**
- Royal Commissions are made up of independent experts who are asked to consider a specific area of concern.
- They are set up as and when are they needed and work on a part time basis investigating the issue and putting together proposals for reform. Once they have completed their report that particular Royal Commission comes to an end.
- The Runciman Commission was set up to investigate why the Birmingham Six were wrongly convicted of the IRA Birmingham pub bombings and spent 15 years in prison.
- Among other things this led to the Criminal Cases Review Commission being established which looks at cases where there may be a possible miscarriage of justice.
- However one of the main proposals of the Runciman Commission was to maintain the right to silence, this was ignored by the Governemnt and this right was changed by the Criminal Justice and Public Order Act 1994.
• Other Royal Commissions include the Philips Commission which led to the Police and Criminal Evidence Act 1984 (PACE) and the Wakeham Commission which looked into reform of the House of Lords in 2000.

Reviews by Judges
An individual judge may be asked to lead an investigation into technical areas of law and make proposals for reform. A key example of this was the Woolf Report on the Civil Courts system. This report led to major changes to the civil justice system being brought in, in 1999.

Other Influences on Parliament- Very Important

The Media
• The media sometimes campaign for a change in the law.
• The media are rarely successful with their campaigns.
• A recent example was the campaign by the News of the World to expose paedophiles after the murder of Sarah Payne in 2000.

Pressure Groups
• Groups such as Friends of the Earth & Greenpeace lobby Parliament for changes in the law.
• An example of a successful campaign by a pressure group was the Snowdrop Campaign after the Dunblane massacre where 16 children were shot at a primary school in Scotland in 1996.
• This pressure group's campaign eventually led to the banning of handguns in the UK.

Public Inquiries
• These are usually set up after a serious event or a disaster and are often led by a senior judge.
• For example the Taylor Report was established after the Hillsborough disaster in 1989 at the FA Cup semi-final between Liverpool and Nottingham Forest.
• This led to all seater stadiums in many football grounds.

Manifesto Promises
• Political parties publish their proposals in the lead up to a general election, this document is called a manifesto.
• An example of a disastrous manifesto promise was in the Conservative's manifesto in 1987, in which they proposed to set up a new system of local taxation to replace the rates.
• The poll tax, as it became known, was introduced after Thatcher won the general election and it proved to be her downfall. There was massive opposition to this 'Robin Hood' tax in reverse that in effect took money off the poor and gave it to the rich.
• A mass campaign of civil disobedience was organised (by the socialist group Militant) and over 26 million people refused to pay the tax and had to be summoned to the Magistrates Courts by local councils.
• Many people were prepared to go to prison rather than pay and eventually the Tories were forced to 'get rid' of both the poll tax and the person who introduced it, Thatcher.