

[www.fairfordcoachaction.org.uk](http://www.fairfordcoachaction.org.uk)

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## LAW LORDS RULE TO PROTECT FREEDOM TO PROTEST

Anti-war protestors are today celebrating a ruling by the House of Lords that police acted unlawfully in turning them away from a demonstration and detaining them on their coaches for 2½ hours without arrests, violating their right to freedom of speech and assembly and freedom from arbitrary detention.

The police had argued, at the hearing in October, that they were in fact protecting the protestors' right to life, by preventing 120 of them from reaching protests at RAF Fairford (Gloucestershire). The officer in charge of policing the protests stated that, since the US military had reserved the right to use "deadly force" in the event of an intrusion into the base, "had a member of the public been killed or injured by one of the armed personnel guarding the B52 aircraft...the political consequences would have been extremely damaging to the coalition partners". Helen Wickham, a coach passenger, said: "I think it is deeply worrying that Gloucestershire police, confronted with the possibility of US troops shooting unarmed protestors, chose to defend the US use of lethal force over our right to protest. I wonder if there was pressure on them to do so."

The protestors have always maintained that the actions of the police were both unlawful and unreasonable. Many have doubts about the legality of searches which took nearly two hours and included the seizure of a Frisbee and a bag of toy soldiers. It was only once the passengers had reboarded the coaches after being searched that they were told they would not be allowed to continue to the demonstrations. The forced return, a 2 ½ hour journey back to London, was made without toilet breaks and under a heavy police escort "to prevent a breach of the peace."

The ruling was welcomed as a clarification of a draconian power which Parliament has never debated or sanctioned and which many protestors feel is used inappropriately to stifle dissent.

Giving judgment, Lord Bingham said the case had "raised[d] important questions on the right of the private citizen to demonstrate against government policy and the powers of the police to curtail exercise of that right."

They had done so wholly unlawfully in this case, their Lordships held, because the Human Rights Act had brought about "a constitutional shift" creating for the first time a right to protest which the common law had previously been "reluctant and hesitant" to acknowledge (para 34 of the ruling). Freedom of expression was "an essential foundation of democratic

society" (para 36) and there had been no reason to restrict it in this case. Rejecting the police's argument that suspicions about some of the coach passengers entitled them to turn back everyone, Lord Bingham commented: "There was no reason (other than her refusal to give her name, which however irritating to the police was entirely lawful) to view the claimant as other than a committed, peaceful demonstrator. It was wholly disproportionate to restrict her exercise of her rights under articles 10 and 11 because she was in the company of others some of whom might, at some time in the future, breach the peace."

This ruling will impact significantly on policing of future demonstrations and will have implications for the Austin/Saxby May Day 2001 cases against the Metropolitan Police to be heard early next year. On Mayday 2001, police detained thousands in Oxford Circus for seven hours to "prevent a breach of peace".

Jane Laporte, the claimant in the case, was determined that the police's actions should not go unchecked. She said today:

"The willingness of the police to bow to political pressure, by stifling dissent and arbitrarily detaining protestors in this way, brings the role of the police as facilitators of peaceful protest in to question. They should, as the judgement found, be the facilitators not suppressors of peaceful protest. I am delighted the House of Lords has said their actions were completely unlawful and a human rights breach."

Jesse Schust, a passenger and legal observer on the coaches, said: "It is particularly ironic that the police violated our human rights by detaining us, when we sought to demonstrate against an illegal war that has devastated Iraq and left over 100,000 dead."

John Halford, a public law and human rights specialist at Bindman and Partners, represented the campaigners. He said today:

"The House of Lords judgement is a wake up call for democracy. Under this government we have seen a sad and steady erosion of the rights that underpin democracy: those to express dissent and to do so collectively with others in public. The Lords have given a principled judgement on where the line should and must be drawn: peaceful protest can only be prevented in the most extreme circumstances which are very far from this. These campaigners wanted to protest lawfully against an unlawful war. The Lords have unhesitatingly said they had that right."

For more information on Fairford Coach Action, phone Jane Laporte on 07817 483 167 or Jesse Schust on 07814 587 361 or e-mail [press@fairfordcoachaction.org.uk](mailto:press@fairfordcoachaction.org.uk)

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Notes for Journalists

1. Fairford Coach Action is the name of the group of more than 90 passengers who have collectively decided to pursue a Judicial Review case against the police's actions on 22nd March 2003. Full background information is available on the website. Visit the site for links to the full judgement, related web articles, statements of support, and testimonial statements from coach passengers. <http://www.fairfordcoachaction.org.uk/>

2. On 22nd March 2003, three days after the start of the US/UK war on Iraq, a demonstration organised by the Gloucestershire Weapons Inspectors (GWI), attracted over 3,000 protestors to the airbase. Groups travelled to Fairford from 37 locations across the UK. American B-52 planes flew from RAF Fairford airbase to bomb Baghdad (see <http://www.fairfordpeacewatch.com/> ) and Fairford was the site of excessive policing during the war on Iraq. (Within 52 days (from 6 March 2003), police conducted over 2000 anti-terror searches in the vicinity.) GWI, Berkshire CIA and Liberty issued a dossier showing how stop and search powers of the Terrorism Act 2000 were misused by police. For the report "Casualty of War - 8 weeks of counter-terrorism in rural England" see <http://www.gwi.org.uk/> and <http://www.liberty-human-rights.org.uk/> The Government estimated the added cost of policing RAF Fairford was £6.9 million. The airbase continues to be upgraded for use by US Stealth (B2) Bombers, greatly expanding the US capacity to "invisibly" deploy tactical nuclear weapons anywhere in the world within hours. Further info at <http://www.gwi.org.uk/> and <http://www.atkinsglobal.com/skills/design/sectors/aviationdefence/jfsiraf/fairford/>

3. The Appellant in the case is The Queen on the application of Jane Laporte. The respondent or main defendant is The Chief Constable of Gloucestershire Constabulary. The two interested parties are the Commissioner for the Metropolitan Police and the Chief Constable of Thames Valley Police.

4. The solicitor representing the case, John Halford, can be contacted at Bindman & Partners on 020 7833 4433. Also representing are Michael Fordham of Blackstone Chambers and Ben Emmerson QC of Matrix Chambers.

5. The committee of five Law Lords who heard and ruled on the case are: Lord Bingham of Cornhill (Senior Lord of Appeal in Ordinary), Lord Rodger of Earlsferry, Lord Carswell, Lord Brown of Eaton-under-Heywood, and Lord Mance.

6 Liberty made a submission to the House of Lords, supporting the passengers' case. The Fairford coach case is listed in Amnesty International's report: Europe and Central Asia: Summary of Amnesty International's Concerns in the Region, January-June 2004, and was mentioned in Liberty's dossier on the policing at RAF Fairford. Other supporters include Ken Livingstone, David Drew MP (Stroud), Lynne Jones

MP, Caroline Lucas MEP, Jean Lambert MEP, and Mark Thomas (see [www.fairfordcoachaction.org.uk/press](http://www.fairfordcoachaction.org.uk/press) for quotes).

7. Interviews with passengers from the coaches can be arranged (please enquire - see contact details above). Dramatic, high-quality, digital video footage and photographs are also available. To use this footage, contact Catherine Bonnici of Journeyman Films ([catherine@journeyman.co.uk](mailto:catherine@journeyman.co.uk) Tel: 020 8941 9994 Fax: 020 8941 9899).

8. Professional photos of the coach detention are available. Guy Smallman was one of several accredited journalists who were on the coaches. He has a selection of pictures from the day. Contact Guy Smallman 07956 429 059 with enquiries. (These photos are in a suitable format to be wired directly to the picture desk).

9. The Human Rights Act 1998 came into force in October 2000. It requires the police and other public authorities to avoid breaching key European Convention Human Rights Articles save where legislation makes this impossible. Amongst the key rights are Article 5 (deprivation of liberty must be justified in accordance with a procedure prescribed by law and on one of the five grounds listed in paragraph (1) of the Article), Article 10 (freedom of speech and expression) and Article 11 (freedom of assembly).

10. At common law a constable may arrest a person without warrant whom he or she reasonably believes will commit a breach of the peace in the immediate future, even though at the time of the arrest such person has not committed any breach. This power is subject to a number of strict restrictions, however: the belief must relate to an act or threatened act harming any person or, in his presence, his property, or which puts a person in fear of such harm; the belief must relate to the likely actions of the particular individual or individuals against whom the power is used; and when the particular individual is acting lawfully at the time the power is used, the threat of his committing a breach of the peace must be sufficiently real and imminent to justify the use of such a draconian power.

From the Press Team at the Fairford Coach Action

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