

2.7 Deputy F.J. Hill of St. Martin of H.M. Attorney General regarding legislation relating to the Magistrate's Court not being subject to human rights audit:

Will H.M. Attorney General advise Members of the reasons why the Loi (1864) réglant la Procedure Criminelle, the Criminal Procedure (Connétables and Centeniers) (Jersey) Law 1996 and the Magistrates Court (Miscellaneous Provisions) (Jersey) Law 1949 which all relate to the running of the Magistrate's Court were not subjected to a human rights audit?

Mr. W.J. Bailhache Q.C. (H.M. Attorney General):

Following the passage of the Human Rights Law in 2000 the Policy and Resources Committee of the day set up a Human Rights Working Group which looked at the different laws, policies and administration across the States. The decision taken in that group was that each department would be responsible for reviewing its own legislation and its own administration to ensure that there was a human right's compliant process. That decision, as far as I am aware, although my department was represented on the working group I was not on it myself, was taken on the grounds mostly of cost but also, linked to cost, the time that would be taken to review the entirety of the statute book. That, I understand, are the reasons for the decision that was taken at that time.

2.7.1 The Deputy of St. Martin:

The Attorney General will recall that in March 2003 he met with the former Home Affairs Committee to discuss, among other things, the Rutherford Report including Recommendation 4 regarding the role of Centenier in the Magistrates Court. Did the Attorney General carry out, or his department carry out, any specific audit or prevention audit on legislation pertaining at that time to the running of the courts and the role of the Centeniers?

The Attorney General:

I think the answer to that is no, as far as I recall. The administering responsibility for the courts would be the Court Service. But, having said that, I fully accept that the prosecution should have spotted any major errors if there were any major errors and, of course to that extent, if there are any I would take responsibility for that.

2.7.2 The Deputy of St. Martin:

Could I just ask another supplementary, Sir? The Attorney General in his answer mentioned about one has to look at costs when one considers Human Rights Law. Would it be fair to say that really at the end of the day, if Human Rights Law has to be complied with, it is down to the State to ensure that it has the cost to meet the Law or the requirements of the Law?

The Attorney General:

No, I am sorry, what I think I said was that cost was a feature in the methodology that was adopted for reviewing what needed to be done. I quite agree with the Deputy to the extent that he says that cost is no answer to making sure that your administrative and legal systems are human rights compliant.