Haldane Society of Socialist Lawyers

Socialist LAWYER

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Spring 1991

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TONY BENN

- conscience law + social progress

THE GREAT GULF...

- in International Law

THE McKENZIE REJECTED

- a fairweather friend?

SOCIALIST LAWYER

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The Haldane Society was founded in 1930. It is an organisation which provides a forum for the discussion and analysis of law and the legal system from a socialist perspective. It is independent of any political party. Its membership consists of individuals who are lawyers, law teachers or students and legal workers and it also has trade union and labour movement affiliates.

The Subcommittees of the Haldane Society carry out the Society's most important work. They provide an opportunity for members to develop areas of special interest and to work on specific projects within those areas. All the Subcommittees are eager to attract new members so if you are interested in taking a more active part in the work of the Society please contact the Convenor and s/he will let you know the dates and venues of the meetings.

SUBCOMMITTEES:
Meeting are held at our office at: Panther House, 38 Mount Pleasant, London WC1X 0AP Tel: 071 833 8958. Meetings as listed.

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HALDANE NEWS

Public Meetings

The Haldane Society has held four public meetings since October. The first was on the judiciary and was addressed by Helena Kennedy and Tony Gifford. Tony Gifford suggested that whilst the last 20 years had been the generation of the radical lawyer the next 20 might be the generation of the radical judge, whilst Helena Kennedy urged that a Judicial Commission be set up as soon as possible to usher in a more representative and responsive judiciary. Over 100 people attended and the Society has now set up a working party to put forward proposals for reform. Initially this will be convened by John Wadham who can be contacted via the Haldane office.

The second meeting was the Pritt lecture delivered by Tony Benn. The new lecture theatre at LSE was full to bursting and time limited a lively debate about law and conscience (the edited version of the text appears on page 12 of this issue of ***SL***). In November the Haldane Society hosted a joint meeting with the PLO and ANC at which Afif Safieh and Mendi Msimang (see accompanying article on page 11). Over 250 people attended and it is hoped that the speeches will form part of a pamphlet to be published later this year. Finally, the Haldane Society addressed the issue of international law and the Gulf Crisis. Three radically different perspectives were given by Dr Safia Safwat, Francoise Hampson and Bernie Grant MP (see edited text of speech delivered by Francoise Hampson on page 5).

Delegations

Some work between the Haldane Society and progressive lawyers in El Salvador culminated in December when the Society was able to send two delegates to a conference in El Salvador (a report appears in DESPATCHES on page 2). In addition the chair of the Society, Bill Bowring, visited the Occupied Territories, as part of an IADL mission in December.

Sub-Committees

After the Recruitment Conference sub-committee convenors came together in October to discuss their progress and to attempt better co-ordination of work. It was agreed that each sub-committee will sponsor one public meeting a year and that annual budgets will be allocated to sub-committees to cover the cost of administration.

Haldane Trust

Proposals for the Haldane Trust (see last issue of ***SL***) are now with the Charity Commissioners. It is hoped that the Trust will be launched in February/March 1991. Already a number of people have agreed to become trustees. Further details can be obtained from Keir Starmer or Kate Markus.

DESPATCHES

INCHING TOWARDS PEACE

For three days in December some 300 people, including two Haldane Society representatives, met on the banks of Lake Coatepeque in Western El Salvador for a conference organised by IEJES – the only independent and progressive bar association in the country.

Recent developments inside El Salvador and around the world have led to the hope that the 11 year civil war, which has killed 75,000 people, may now be brought to an end. Under the auspices of the UN, negotiations have been taking place between the FMLN and the Government as the country inches towards a ceasefire. The conference was intended to provide the FMLN with theoretical input on the central issues to be discussed at the negotiating table.

The conference divided into working parties which tackled topics such as electoral and constitutional reform, demilitarisation, press freedom and human rights. We were assigned to the human rights group and struggled to keep abreast of the high level of legal and political debate which ensued.

Among the highlights of the conference were the papers delivered by Godfrey Dzvairo, Zimbabwean lawyer with experience of The Lancaster House Agreement and Rodolfo Matarrollo, a human rights lawyer from Argentina who had direct experience of of the attempts to bring to justice the military after the fall of the generals. On behalf of The Haldane Society we delivered papers on the question of amnesty and its application to the peace process.

After the conference we headed back to San Salvador for a series of highly productive meetings with groups keen to set up a law centre in the capital. As a result of this trip links have now been forged between The Haldane Society and progressive elements in El Salvador, with the hope of increased contact in the forthcoming year. Watch this space for details.

Hugh Barton

UP AND RUNNING

The Public Law Project has now established its offices at the Institute of Advanced Legal Studies in London. The Project has been set up to promote better access, especially for disadvantaged groups, to legal remedies against official bodies and to the enforcement of public law rights in general. It now has two staff: Jane Winter, the Development Worker, and Lee Bridges, the Research and Policy Officer.

Its initial activities will include holding seminars and conducting research on specific public law issues. The first, held jointly with IALS on 31 January, was on *Judicial Review: Groups and Legal Aid*, with Lord Justice Woolf as one of the speakers. The second seminar on *Class Actions*, is being organised for 2 March and will discuss a paper commissioned by the Pay Equity Campaign on the potential use of class actions in enforcing equal pay claims. It is hoped that materials from these seminars will be made more widely available in due course as part of the Project's publishing programme.

The Project welcomes enquiries and referrals from other bodies, although its limited resources mean that it will be unable at present to undertake many specific research commissions.

The Project can be contacted at Room 505, Institute of Advanced Legal Studies, Charles Clore House, 17 Russell Square, London WC1B 5DR, tel: 071 436 0964.

Jane Winter

COLD TURKEY

The DPP now accepts that the scientific evidence against the Birmingham Six is no longer sustainable. That leaves two remaining grounds on which the Crown bases it's case – the purported confessions and circumstantial evidence. The Home Secretary's decision to refer the case back to the Court of Appeal stemmed from new evidence that details of one of the interviews may have been falsified.

Faced with such developments, even *The Times* has been moved to print an editorial headlined 'Free the Birmingham Six'. The Independent want them freed immediately. Despite such broad consensus, those responsible for the judicial process appear completely unwilling to call a halt to the 16 year old scandal. Lord Justice Lloyd stated that haste was not in the men's interest and anyway there was a risk of indigestion over the Christmas vacation.

One would have thought the Prosecution and the Court of Appeal would want the men out as soon as possible if any vestige of credibility is to be salvaged on their behalf. But, as the Guildford Four release demonstrated, no amount of damage limitation can shore up the major crisis of confidence in the criminal justice system that is unleashed. It is rumoured that the DPP wants the case dropped in advance of the appeal and that the Court of Appeal is forcing the Crown to go through with it. But no Lord Chief Justice can force the DPP to present a case against the Six. On the other hand it is very much the Court of Appeal on trial, in this instance having so resolutely rejected the 1987/88 appeal.

In truth, neither institution is willing to take responsibility for a miscarriage of justice. Until both they and the police do, there is no reason why the public should have confidence in or respect for the system that created it.

Piers Mostyn

WRITING RIGHTS

The United Kingdom government has submitted its third periodic report to the United Nations Human Rights Committee which it is obliged to do under Article 40 of the International Covenant on Civil and Political Rights. The report will be discussed by the Human Rights Committee meeting in New York between 25 March and 10 April 1991.

Both the Belfast-based Committee for the Administration of Justice and the National Council of Civil Liberties are working on submissions to the hearing and are prepared to help co-ordinate work of interested parties.

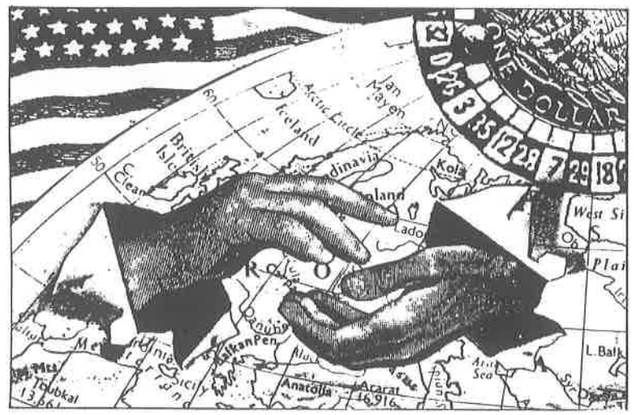
In order to facilitate those wishing to make written submissions to the hearing, the Britain and Ireland Human Rights Project has reproduced aspects of the report relating to human rights in Northern Ireland and the Irish in Britain. For easy reference, each extract is prefaced by relevant Articles from the International Covenant.

Send £2.00 cheques payable 'Britain and Ireland Human Rights Project', 76-82 Salusbury Road, Queens Park, London NW6 6NY

Lee Bridges

FUSING IN NEW-KASSEL

Kassel is almost dead-centre in the new Germany. Over the week-end of 9-11 November 1989, only a month after unification, 160 lawyers, 80 from the former German Democratic Republic, as it is now called, and 80 from the West, met in Kassel to discuss the way forward. The Conference was organised by the Union of Democratic Lawyers (UDL), the Haldane Society's sister organisation and section of the IADL. The UDL had about 1,200 members.



In February 1990 the East German lawyers agreed a new Constitution, and elected a new executive, headed by the respected lawyer Dr Friedrich Wolf. Dr Ursula Bucker, President of the UDL, took the view that the two organisations should come together in the new Germany. Many UDL members denounced the proposal, saying that the East Germans were lawyers who had supported an unlawful, repressive State. So Bucker invited Wolf to speak at a meeting of the UDL and in May 1990 the decision was taken to organise the Conference.

I attended, representing the Haldane Society; Speakers included Dr Henner Wolter, a lawyer with the Media Union; Uwe Weitzberg, a sacked woman judge from East Berlin (all East Berlin Judges have been dismissed); Uwe Gunther, a Green woman lawyer and member of the Bundestag and Ulrich Vultejus of the Humanist League (something like the NCCL/ Liberty).

Almost all the lawyers from the West were born since World War II and have been, like Haldane members, oppositional lawyers, working with the Unions and in mass struggles. They asked why GDR lawyers had not shown more civic courage. Heinrich Wolf and other replied that when GDR lawyers had acted wrongly, it was not a question of their personal courage; they believed that what they did was right within the socialist system.

It was quite apparent that those from East and West, although all of them Germans, spoke very different languages culturally and politically. All lawyers in the former GDR are undergoing re-education. Many of them, particularly the Judges, must suffer searching interrogations as to their previous political activities – and even as to whether they now have contacts with the East.

I was impressed by the number of young, progressive Judges, members of the UDL, who took part. The tone of the Conference was generally open, positive and forward looking. The UDL are eager to work with the Haldane on all the quesions surrounding 1992 – labour, social and womens rights, immigration and asylum problems.

Bill Bowring

HUMAN RIGHTS ASSEMBLY

At a preparatory conference held on 10 December, the National Council of Civil Liberties and more than 50 human rights and civil liberties groups agreed proposals to hold an international Human Rights Assembly on Northern Ireland.

The Assembly which will be held in London from 8-12 July 1991, aims to encourage dialogue between organisations in order to establish a comprehensive human rights agenda on Northern Ireland. Contributors to the preparatory conference showed the promise of such an approach, identifying different perceptions of human rights from different communities in Northern Ireland and pointing to social and economic rights which need to be addressed together with civil and political rights.

Organisers argued for an international Assembly which would enable the human rights community to bring its weight and experience to bear upon the unresolved conflict in Northern Ireland and open up the debate in international fora.

In order to bring discussion into sharp focus, the Assembly's 12 working commissions will concentrate on identifying breaches and shortcomings in the Government's legal obligations as defined by the UN Declaration of Human Rights and the European Convention. Eminent jurists nominated by international human rights bodies will hear evidence and, where a prima facie case in established, direct the commissions to examine remedies.

For full report and documentation from the Preparatory Conference send cheque for £2.50 payable to 'Human Rights Assembly', c/o Liberty, 21 Tabard Street, London SE1 4LA

SLOW DEATH FOR PI SUITS?

Rosie Barnes MP introduced a Bill which would set up a Medical Injuries Compensation Board (MICB), loosely modelled on the Criminal Injuries Compensation Board (CICB). The Bill failed to survive its second reading on 8 January but the guiding principles in it have enormous potential significance for the future of personal injury compensation. A peculiarity of the Bill is that it is drafted in unusually plain English.

The MICB would be made up of doctors, lawyers and lay people. It would have power to award compensation out of public funds in cases of medical 'mishaps' irrespective of blame. The claimant would have the option of suing for negligence, with or without legal aid, but if s/he received compensation from the MICB the right to sue would then be *subrogated*, ie would vest in, the MICB. The latter could

then attempt to recover the compensation it has paid out by suing for negligence, and liability would depend on normal principles.

The MICB would also have power to call for explanations and if necessary an apology, and to instigate disciplinary proceedings against doctors. Drug companies could be made to repay the cost of NHS treatment of the victim. The Labour Party is torn between support for the principles behind the Bill and a reluctance to do anything to enhance the standing of Rosie Barnes, whose marginal seat they covet.

The idea of a public body acting as insurer, paying 'damages up front', to the victim of an accident and then seeking to recover them from a tortfeasor under the principle of subrogation, could be applied across the board in personal injury cases. Consumer groups and lawyers close to the Labour Party have already been discussing this. Rosie Barnes's Bill could be the start of a process culminating in the abolition of actions for personal injuries and disease resulting not just from medical, but from all, accidents.

Tim Kerr

INJUSTICE CONTINUES?

A decision in Danny McNamee's application for leave to appeal is imminent. The hearing in December 1990 exemplified yet again that the justice that an Irish person accused of a terrorist offence can expect is in a class of its own. Superficially there was a willingness to be seen to be fair and new expert evidence was admitted. However, underlying antipathies were never far from the surface. Richard Ferguson QC was asked by the Bench whether he was not (being Irish , no doubt) over-identifying with his client.

The two major grounds of appeal are firstly that the time of the alleged conspiracy to cause explosions was extended by one year to include the Hyde Park bombing, just 10 days before trial and an adjournment refused; and secondly, after closing speeches, the location of the conspiracy was widened to include anywhere outside the United Kingdom.

The Appellant is fighting an uphill struggle. Throughout his trial, evidence was let in when its admissability was doubtful. Evidence of a previous charge that led to an acquittal in the Republic; his reaction to a Sinn Fein leaflet and evidence involving highly speculative connections between types of explosive equipment were allowed. At the hearing in December there was adverse comment, as at the trial, about the use of private money by the defence to employ experts from America.

In addition there was fresh expert evidence on one of the three fingerprints which represent the only substantial evidence linking McNamee with the Conspiracy. In a courtroom in which top establishment experts filled almost an entire row, the expert withdrew his stated opinion that the print lacked the requisite number of similarities to be admissible. What was clear from the evidence was that some exhibits had been given the same identification number and that procedures for record keeping at the Royal Armament Research and Development Establishment were far from foolproof.

As for the fingerprint in question, all experts agreed that it was a very poor 'lift' and that it bore the minimum of similarities. At this fingerprint was the key piece of evidence used to rebut the defence of innocent association with materials used in bomb making activities, the controversy surrounding it is a cause for concern.

The result of the application is now awaited by McNamee and his family. The many British, American and Irish observers at the hearing remain convinced that McNamee was wrongly convicted and will continue to press for an appeal even if this application fails.

Nadine Finch

TAKING ROOT

Fondly known amongst its growing membership as the 'Baby Haldane', the new academic year has brought much success to our student branch of the Haldane Society at Southampton University. Although still relatively infant in its development, we are delighted with our achievements so far. The organisation of a legal reading group has proved most popular with both students and lecturers, canvassing such controversial topics as 'Should Radical Lawyers Represent Rapists?' and 'Should we Legalise Drugs?'. A Legal Advice Centre is now well in the pipeline and looking to be a popular and worthwhile addition to the services of the Student Union, running effectively by the end of this academic year. Our biggest excitement to date, however, was the visit from Paul Hill of the Guildford Four who shared a platform with two of the fathers of the Broadwater Farm internees. This eloquent man spoke to an audience of over 400 on 'Miscarriages of Justice' and together with the emotive input from the two other speakers, provoked much debate with the University. We have planned more speakers for next term. The Southampton University branch wish all members of the Haldane Society a very successful 1991.

Deborah Johansen
Secretary

To contact the Southampton Branch, write to Deborah Johansen c/o The Faculty of Law Southampton University, University Road, Highfield, Southampton SO9 5NH

Françoise Hampson

The Great Gulf in International Law

Francoise Hampson, lecturer in international law at Essex University, spoke at the Haldane Society's public meeting on 27 November 1990 on the 'Gulf Crisis'. This is an abridged version of the lecture she gave.

There are limits to what international law can do to prevent or resolve crises. This is due not only to the reluctance of States to give the necessary power to centralised decision-making bodies but also to limitations inherent in the nature of law.

International law does, nevertheless, have a vital, albeit limited, role to play in channelling the collective response to a use of force. Different rules of international law fulfil different functions: to *classify* actions so as to reflect some collective sense of unlawfulness; to establish *limits* to *permissible* action, the *maximum* allowable response. Finally, in certain areas, States have been able to conclude detailed agreements *regulating* a sphere of activity. All three types of international law are involved in the situation brought about the Iraqi invasion of Kuwait. These will be examined in turn.

The Iraqi Invasion of Kuwait

The action seen as posing perhaps the greatest threat to the international legal system is an act of armed aggression. This is reflected in the UN Charter which reserves collective enforcement measures for those branches of international law which threaten international peace and security. Such a classification is useful in that it suggests degrees of unlawfulness and it serves to emphasise the absolute condemnation of the invasion of one State's territory by the forces of another.

Force must not be used *even if* the merits of the underlying dispute might favour the aggressor. If Fortress World is to be avoided, small states have to be assured of protection. They will otherwise seek forces and arms commensurate with the threat they face and out of all proportion to their own resources.

It is obvious that, until recently, superpower politics had an adverse effect on consistency in the condemnation of aggression. This relates, however, to the *effectiveness* of the international response. It does not undermine the sense of unlawfulness. Those who object to the condemnation of Iraq's invasion of Kuwait on the grounds of double-standards are suggesting that the abandonment of all sense of legality is to be preferred to double-standards in implementation. The danger in such a view is obvious. It is submitted that, if the US operations in Grenada, Nicaragua and Panama ought to have been condemned, then so must Iraq's invasion of Kuwait.

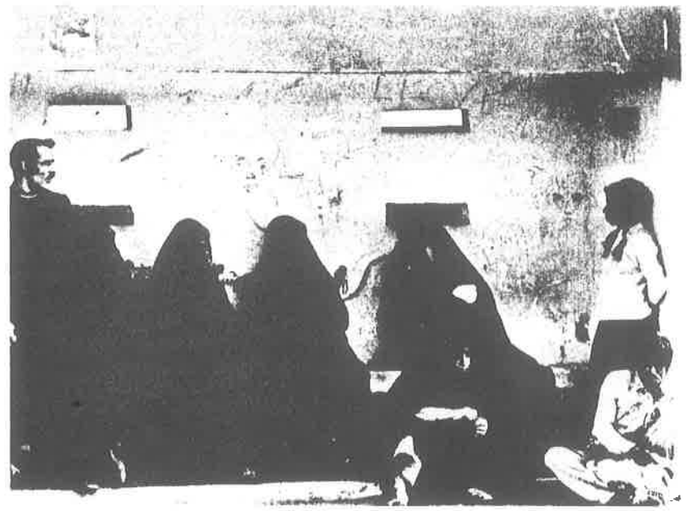
The International Response to the Invasion

The second function of international law identified at the outset was that of setting maximum permissible limits on a State's conduct. International law defines the possible response both of the State victim of aggression and of the international community as a whole.

The Victim of Aggression

Having been subject to an armed attack, Kuwait became entitled to invoke its 'inherent right' of self-defence under Article 51 of the UN Charter. This does not entitle Kuwait to take any action it sees fit but obliges it to act within the framework of customary international law. One of the necessary elements in any lawful response is that it be proportionate. Under Article 51, Kuwait is entitled to seek and to receive assistance in its defence of itself. Any action taken by an assisting State under Article 51 is in the name of Kuwait and not of the UN or the community of States. Kuwait may rely on Article 51 'until the Security Council has taken measures necessary to maintain international peace and security'. The mere passing of resolutions is hardly sufficient but it is not clear that the restoration of the *status quo ante* is required. There is, presumably, an obligation on Kuwait and any State assisting it to act in good faith and not to frustrate attempts by the Security Council to resolve the dispute.

It is sometimes argued that a State loses the right to rely on Article 51 if it does not respond at once. That is both legally and politically unworkable. It would prevent the use of sanctions or of negotiations to persuade an aggressor to withdraw. It would require an immediate response, even at the price of higher casualties on both sides. It should also be made clear that a State may, in reliance on its right of self-defence, launch an attack to dislodge an invader. Attack is a neutral term; it does not necessarily denote



Bus Stop

offensive, as opposed to defensive, action.

It is not clear what limits the criterion of proportionality would impose on military action. Taking the conflict into Iraqi territory might be seen as an escalation of the conflict but would probably be regarded as proportionate if the target was clearly related to the Iraqi occupation of Kuwait.

It might, for a variety of reasons, not be politically wise to rely on Article 51 of the UN Charter alone, particularly in the case of Kuwait's allies. Article 51 establishes the maximum allowable response.

The International Response

Alongside Kuwait's right to self-defence, the international community can respond to an act of aggression threatening international peace and security, acting in the name of the UN. The Charter envisages a gradual escalation of measures, starting with measures not involving the use of armed forces, including sanctions. In Resolution 660, the Security Council condemned the invasion of Kuwait; in Resolution 661 it ordered sanctions to be imposed and in the Resolution 665 authorised maritime forces to use such measures as might be necessary to enforce the sanctions resolutions. Once the Security Council considers that such measures 'would be inadequate or have proved to be inadequate', it

> **'Kuwait... is entitled to resort to a proportionate use of armed force'**

can take such action involving the use of force as may be necessary to restore international peace and security. In Resolution 678, the Security Council gave Iraq until 15 January 1991 to implement full earlier Security Council resolutions. Resolution 678 clearly authorises the use of armed force. The forces currently deployed in Saudi Arabia and the Gulf are a multi-national force and not a UN force.

The willingness of the US to use the UN, rather than acting in reliance on Kuwait's right of self-defence under Article 51, is a significant development. It was made possible by the positive support of the USSR and the fact that the People's Republic of China did not use its veto power to block Resolutions 678. In this case, the US wants the support of the UN. It remains to be seen whether, in the future, it will accept restrictions on its own conduct imposed by that body.

The Conduct of the Occupation

Detailed rules regulate the conduct of hostilities and military occupations. Their applicability is independent of the lawfulness of the resort to armed force. The law is to be found in the Regulations annexed to the Fourth Hague Convention of 1907, which is binding on Iraq as customary international law, and the Fourth Geneva Convention of 1949, binding by virtue of accession. Iraq has not ratified the Protocol of 1977 which updates both those bodies of law. Iraq is also bound by non-derogable human rights law, notably the International Covenant on Civil and Political Rights. Four principal issues have emerged; the treatment of foreign, that is, non Kuwaiti, nationals; the treatment of Kuwaiti civilians; the use made of Kuwaiti property and the problem of enforcement.

1. Foreign Nationals

The taking of hostages is unlawful. Foreign nationals in Kuwait at the time of the invasion were 'protected persons', even if they had subsequently been taken in Iraq. Those in Iraq at the time of the occupation were not 'protected persons', since the UK had a functioning embassy in Baghdad. Foreign nationals are supposed to be allowed to leave occupied territory. In certain limited circumstances, foreigners can be interned but they can not be exposed to danger.

2. Kuwaiti Civilians

Their treatment also is regulated by the Hague and Geneva Conventions. Not only is ill-treatment prohibited but positive obligations are imposed on the occupying power with regard to the provision of food, health facilities and the judicial system.

3. Kuwaiti Property

Pillage is prohibited and there are detailed rules on the requisitioning and seizure of private property. In the case of immovable State property, the occupying power has to act as usufructuary.

There are allegations of wide-spread breaches of these rules. Certain States have said that they are keeping a record of the allegations, with a view to seeking repartations and to subjecting those responsible to war crimes trials.

4. Enforcement

The State is responsible for the acts of its armed forces. Under the Hague Conventions, it is liable to pay reparations. In the case of 'grave breaches' of the Geneva Conventions, international law provides for universal jurisdiction. The principal practical difficulty lies in gaining custody over alleged offenders. Other breaches of the laws and customs of war may give rise to war crimes trials. The individual perpetrator carries responsibility for his actions; superior orders, in the case of patent illegality, are no defence but may be relevant in mitigation. Officers are responsible for ensuring that those under their control respect the rules.

The responsibility of Saddam Hussein for waging a war of aggression is based on the Nuremberg principle, rather than the Hague and Geneva Conventions. A trial for such an offence would most aptly be conducted by a specially created tribunal. Political leaders, in advocating such proceedings, have not explained how they propose to obtain custody over Saddam Hussein.

It is clear that mechanisms exist for the enforcement of the detailed rules regulating the conduct of belligerent occupation but that is not, of itself, sufficient to ensure effective enforcement.

Lessons to be Learnt from the Conflict

If international law is to be the basis for the conduct of international relations, the world community needs to find ways of requiring states to settle disputes peacefully. If small States are to feel secure and if we are not to see an

explosion in arms sales, the UN must ensure that Saddam Hussein gains nothing from his act of aggression. Much greater control needs to be exercised over arms transfers. The arming of regimes known for the gross and systematic violation of human rights needs to be prevented. The short-sighted policy of regarding one's enemy's enemy as one's friend is not consistent with international relations based on law. Only when States are prepared to recognise that respect for the rule of law is in their individual, as well as in the collective, interest will there be any hope for the maintenance of peace and security based on respect for the law.

Frances Connelly

Green Lawyers Aim for the Sky

The Centre For International Environmental Law (CIEL) was set up by two British barristers and two US attorneys whose aims were to make internatinal environmental legislation more powerful.

Working with NGO's

Environmental NGO's have become increasingly large, well resourced and efficient. The large, western NGO's have more international lawyers available than the legal offices of most governments. Greenpeace's annual budget is over twice that of the UN Environmental Programme.

CIEL has been involved in the drafting of the statute of the mutinational Bank for European Reconstruction and Development (BERD) to ensure that environmental issues were taken into consideration. It is the first statute of its kind.

At the International Whaling Commission, CIEL was given observer status and has advised NGO's as to the law of the IWC. It has advised the Whale and Dolphin Society in their attempts to persuade food companies to label fish products which are not caught by drift nets. CIEL has also worked with the World Wildlife Fund to effectively bring about the end of the ivory trade.

Working with Governments of Developing Countries

Smaller countries cannot afford to attend the international conventions where legislation is framed. Yet for international legislation to suceed it is essential for these countries to participate in the negotiating process and they need pro bono legal help to do so.

CIEL has undertaken a two year project on climate change and global warming in order to give legal and practical assistance to those states which will be the first to suffer serious flooding and cyclones as global warming takes effect.

Working with the Corporate Sector

CIEL is working with the Council of Europe Commission to ensure full compliance with the Montreal Protocol on Ozone Depleting Substances which requires total phase-out of certain CF's by the year 2000. The organisation's brief also includes the provision of general advice to the corporate sector such as a two day presentation given to managers of Kodak.

Human Rights

In Ecuador work is underway to assist local lawyers in their effort to protect tropical rainforests and indigenous peoples from development activities of oil companies.

The protection of the environment has now become an international lagal issue. The international legal community is moving from developing policies to testing legislation. The task is huge and touches on all areas of human activity.

For more information please write to CIEL, King's College, London, Manes Road, London SW3 6LX

Steve Gibbons

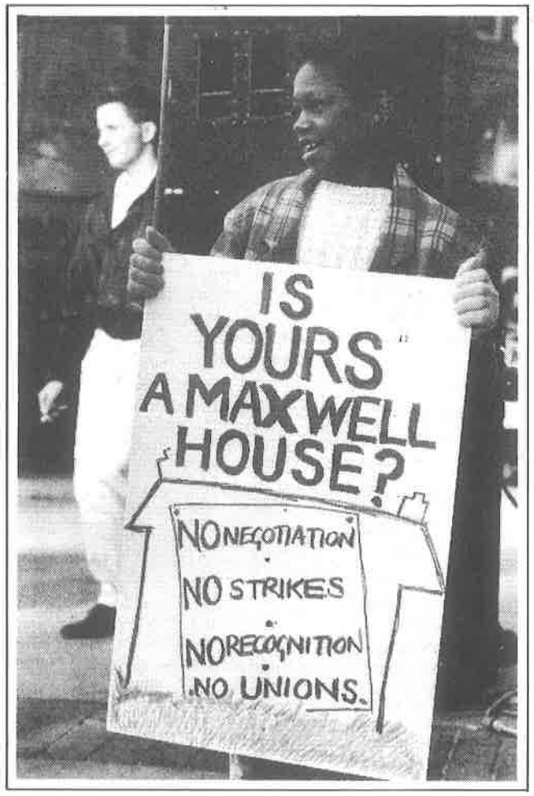
Taming the Wildcats – Unofficial Action and the Law

Despite Thatcher's departure her anti trade unionist policy continues with the coming into force of the Employment Act 1990. Steve Gibbons takes a quizzcal look at the provisions of this latest piece of legislation which may prove to be the straw that breaks the camel's back.

It may be forgivable to have lost count of the number of legislative measures relating to employment law introduced since 1979. The Employment Act 1990 is the sixth stride in the Tory Government's 'step-by-step' approach to the reform of industrial relations law, the fifth relating to collective labour relations. The Act's main provisions had all come in to force by 1 January 1991.

The reform of trade union law was particularly high on the incoming government's agenda in 1979, and was stated as being one of her government's major achievements by Mrs Thatcher on her long-overdue departure. Provisions in the 1990 Act continue the government's wholesale assault on the legal rights of trade unionists. The measures aimed at taming unofficial action should be considered by all socialists, as they constitute a singular attempt to restrict the activities of rank-and-file members and to drive a wedge between those members and the union hierarchy.

The 1990 Act contains a number of provisions, including the new right not to be refused employment on grounds of union or non-union membership; amendments in the law relating to union ballots; extension of the powers of the Commissioner fro the rights of trade union members; and the removal of immunity from all remaining forms of lawful secondary action, except those which arise during the course of lawful picketing. The purpose of this article is to consider the new law aimed at regulating unofficial action.



Going Underground

The pressure to legislate on unofficial action partly arose from the success of the series of unofficial strikes on the London underground in 1989[1]. The sudden decision to change the law as a result of these strikes well illustrates the Thatcher government's 'shoot-anything-that-moves' approach to industrial relations law [2]. The firm display of rank-and-file strength by the tube workers cannot have pleased a Government which had long said that the 'evil' of trade unionism lay in the leadership, not the members. The stated aim of the Trade Union Act 1984 was to 'give the unions back to their members' [3]. The 1990 Act will force the union to police those members.

> **the union will effectively have to police its own members, being forced to disown each and every unofficial strike if it is to avoid the courts**

The Act's approach to unofficial action is two-pronged. It makes unions liable for acts of shop stewards and any member of strike co-ordinating groups of which the steward is a member, unless the action is effectively repudiated by the union. In addition once an act has been repudiated by a union – or where none of those taking action are union members – any of those involved in the industrial action may be selectively dismissed, with tribunals having no jurisdiction whatsoever to hear any fair dismissal claims. To cap it all, any otherwise lawful action which follows will be unlawful if it relates in any way to the dismissal of those taking unofficial industrial action.

The liability of unions for actions in tort has been extended by s.6 of the 1990 Act. A union will now be taken to have authorised or endorsed acts taken by the following: 'any person empowered by the rules to do, authorise or endorse acts of the kind in question; the principal executive committee or the president or general secretary; by any other committee of the union or any other official of the union (whether employed by it or not).'

The Act goes further still. A new s.15(3A) provides that where a steward is a member of a strike committee – which may or may not be authorised to call action by the union's rules or policy – and *any* member of that committee calls action, the union will be liable for that action, unless the union repudiates it within the terms of the Act. Therefore, the interesting legal concept arises that unions are prima facie liable for acts which are ultra vires their own rules or beyond their authority. This takes the law further than ever before [4].

Ian Way

Repudiation Provisions Ridiculous

The repudiation provisions are ridiculous. To effectively repudiate any action which it is taken to have authorised or endorsed, the union must write to the official or committee without delay and 'do its best' to give written notice of the fact and date of repudiation to *every* member who the union has reason to believe is taking part or might take part in industrial action as a result of the call, and to the employer of every such member.

Unions will now be forced to immediately repudiate industrial action called by any member of a group of people who are involved in organising industrial action, where a lay official is a member of that group. If they do not, the union will be liable for that action, which will be automatically unlawful unless a ballot has been conducted in accordance with the stringencies of 1984 Trade Union Act. If there has been no ballot, the union will have to repudiate the action and then ballot.

This situation is compounded by s.7 which provides that a ballot shall not be valid if a union has 'authorised or endorsed' action – in accordance with the provisions set out above – prior to the date of the ballot. The only option for a union who wishes to support unofficial action lawfully is to tell all members in writing that they are repudiating the action, then ballot for fresh action.

Danger of Judicial Interpretation

It is not difficult to imagine employers arguing that the union could not have effectively repudiated the action, when they immediately balloted to support what is effectively the same action. It is also not hard to imagine the courts upholding this type of argument and making it impossible for a union to lawfully support a strike which began unofficially.

The process of repudiation, apart from being time-consuming, costly and likely to lead to mischievous legal argument has substantial ramifications for the role of the union and its relationship with its members. The union will effectively have to police its own members, being forced to disown each and every unofficial strike if it is to avoid the courts.

This whole matter is compounded by a new s.15(5A) to the 1982 Act, which provides that the written notice of repudiation to members to be legally effective *must* contain the following statement:

> 'Your union has repudiated the call (or calls) for industrial action to which this notice relates and will give no support to unofficial industrial action taken in response to it (or them). If you are dismissed while taking unofficial industrial action, you will have no right to complain of unfair dismissal'.

If unions are to follow the letter of the law, they will often appear to be in breach of fundamental principles of trade unionism. To always immediately repudiate all unofficial action, even if explained as a necessary measure under the law, will cause many activists and members to feel let down by the union. Additional comment by the union on the notice of repudiation, aimed at communicating to members that they 'don't really mean it' or were forced by law to repudiate could be interpreted by a Court as making the repudiation ineffective in law.

It is also worth noting a provision in the Act seeking to prevent rank-and-file members using a vote in favour of industrial action to call action. In order for an industrial action ballot to be valid and give the union legal protection, the ballot paper must now specify who is authorised to call any action. If any person, other than those named on the ballot paper, calls any action that action will be unlawful. Therefore, if there is a vote in favour of a strike and those named on the ballot paper, for example the General Secretary and Regional Organiser, decide that industrial action is not appropriate, any action called instead by stewards, would be automatically unlawful.

This clearly restricts the scope for independent action by

stewards and activists and further places the union in the role of policing their members. An interesting proposition on this provision was pointed out by Dennis Skinner at the Report stage in the Commons. If the people named on the ballot paper die before the result, nobody could lawfully call any action. The union would have to hold a new ballot.

Victimisation Sanctioned

Alongside the political ramifications of the Act there are serious legal consequences for individuals, which constitute a further serious infringement on civil liberties. The Act provides that individuals who continue to take action a short interval after – and this is any form of industrial action, not just strikes – may be selectively dismissed and

> **Under the new law, an employer can victimise trade union activists without fear of legal recourse.**

have no right to bring unfair dismissal claims[7].

The old law [8] which still pertains to 'official' action, is that employers have immunity from unfair dismissal claims, so long as they do not selectively dismiss or, within three months, selectively re-engage those taking industrial action. Under the new law, an employer can victimise trade union activists without fear of legal recourse. This is reinforced by the Act's provisions on action taken in support of those dismissed during unofficial action (see below).

The pre-1990 position on the dismissal of those taking industrial action has already been condemned by the ILO [9]. The new position, along with those on unofficial action, is almost certainly in breach of international standards. The powers of victimisation given to employers are incompatible with any system of civilised employment rights. The employer could simply use,' or provoke, an incidence of unofficial action to rid themselves of 'undesirables' and, of course, active trade unionists.

The new law goes one step further in placing unions and their members in impossible situations when unofficial action is taking place. Where an employer has dismissed unofficial strikers any subsequent tortious act by the union will automatically have no immunity if 'the reason, or one of the reasons for doing it is the fact or belief that an employer has dismissed one or more employees in circumstances' in which they would have no right to bring an unfair dismissal complaint by virtue of s.62A.

Lawful Action Potentially Impossible

To take an example of the new provisions in operation: Unofficial action is called over a pay dispute. The union wishes to support this action, so repudiates it and ballots their members. Some members continue the action while balloting takes place. These individuals are dismissed two days after the repudiation and, consequently, have no right to claim unfair dismissal. The ballot shows an overwhelming majority in favour of action and the union calls action. If the employer can then show that one of the reasons for the action is support of those victimised workers – potentially not difficult, as most unions rightly would come to the support of such workers, either expressly or impliedly – then the union may be liable to an injunction with all its consequences.

The law which now relates to unofficial action is restrictive in the extreme. It is certainly possible to envisage circumstances where unions, if they are to remain true to their members and principles, would have no option but to

defy the law. The fact that the majority of unofficial strikes are short-lived affairs which simply 'let off steam', will surely make unions hesitant to follow the impracticable step of repudiating each incidence of unofficial action which comes to their notice. This is over and above the political considerations arising when a union repudiates action.

The 1990 Act may provide the much needed catalyst which gives rise to mass defiance of Conservative employment legislation and a campaign to demonstrate to the public how the provisions of all the 1980's legislation, and the 1990 Act in particular, amount to a serious curtailment of civil liberties. Unfortunately, there are many factors which suggest that support for such a campaign would be unlikely to come from many senior figures in the trade union movement.

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Francis Khoo

The ANC and PLO: A Meeting of Minds

On 15 November 1990, the Haldane Society sponsored a historic meeting between leaders of the PLO and ANC. Recording the meeting for *SL* readers was Francis Khoo, of Medical Aid for Palestine, organisers of the conference.

As the Gulf crisis clearly reveals, the death of the cold War has not led, as some in Washington predicted, to the 'end of history'. History tenaciously continues to unfold in this last decade of the century.

The Haldane Society caught a glimpse of that history on the evening of 15 November 1990. Sponsoring a public meeting on 'the National Liberation Movements of the 1990s' in London, it helped initiate the first joint address in Britain by the chief representatives of the African National Congress and the Palestine Liberation Movement.

Acknowledging a 'fellow freedom fighter' in the PLO's Afif Safieh, the ANC's Mendi Msimang told a packed hall, 'In Sóuth Africa today, the old order is dying. The ignominious history of colonialism, apartheid and racial domination is drawing to an end. Our struggle for democracy, for non-racism and for full political rights for all is moving into its final phase'.

South Africa, he believes, will have a new democratic constitution, a people's government which will at last be able to dismantle the apartheid system in its entirety and replace it with a non-racial and democratic system.

Afif Safieh reciprocated the support the Palestinian struggle extended to the South African movement and spoke of 'the similarities of the struggle for freedom by Black South Africans against apartheid and Palestinians against an equally racist occupation. 'Both our constituencies', said Mr Safieh, 'are voteless victims of injustice, discrimination, domination, dispossession, dispersion, collective punishment and unemployment, yet each has opted for dialogue – on power sharing as in the` case of the ANC and on land sharing in that of the PLO.'

The Palestinians, he said, have offered a solution to the Palestinian – Israeli conflict. Expressing his hope that the newly strengthened role of the international community would grow, Mr Safieh urged all to be convinced to the 'desirability of a multi-pillared international system whose ultimate authority and arbiter is the United Nations'.

Reminding his audience that 15 November was the anniversary of the declaration of the State of Palestine, Mr Safieh said 'history is still undecided on the prospects for genuine peace in the Middle East and the question of Palestine. Help history make the right choice', he appealed.

The DN Pritt Memorial Lecture – Tony Benn

Conscience, Law and Social Progress

This year's Pritt Lecture was on 5 November, a date aptly chosen by guest speaker, Tony Benn. In the face of increasing resistance to the poll tax and to the Gulf war, this was a timely address on the vexed question of whether we should obey unjust laws. This necessarily abridged version of what was said cannot do justice to the warmth and humour with which Benn addressed a packed lecture theatre at the LSE.

I knew Pritt personally and I admired him greatly as a socialist. He put his talents at the disposal of humanity and hasa record to prove it. He was a man of great courage and integrity and I am very glad the Haldane Society chose to commemorate the man with the lecture every year.

I looked at the last [Pritt] lecture I gave in 1979. It was on 10 December, the 31st anniversary of the UN Declaration of Human Rights and I tried to deal with the struggle for human rights and the pressures to resist or reverse them. Those pressures came from the internationalisation of business and finance – well, that is still true; from threats from the security services and the military – well that is still true; from the control of high technology – that has got worse, if anything; and from the impact of common market membership – which, if we go into the economic and monetary union, will have further implications.

Looking back over more than a decade the warnings were timely because power is still getting more and more centralised (not least in the Labour Party). Of course we have seen countervailing and hopeful pressures; the upsurge for greater democracy in eastern Europe; the crumbling of apartheid in South Africa and mounting challenges against state power in Britain. These have all been assisted and, in some cases, made possible, by the readiness of principled and courageous people to challenge the supremacy of the laws in the country in which they live and to disregard unjust laws.

If you look at those who have opposed these resistance movements they have always based their authority on the necessity to maintain law and order as the bedrock upon which their system of government, whatever it happened to be, rested. Under Stalin, anyone who challenged this might be classified as an enemy of the working class. Many of the breaches which Pritt himself referred to at the end of his life and the interventions in Hungary and Czechoslavakia and so on, were based upon this idea that you were an enemy of the working class if you challenged the legal system which upheld them.

I think it is an interesting time now to explore a bit more fully the proper relationship between the people and the law under which they are governed. I should differentiate at the outset between a revolutionary activity, which is the seeking of the replacement of an unjust government by force and then, if there is counter-revolution, to resist it by force and civil disobedience, which, in the meaning which I attach to it, has involved seeking a change of policy and of institutions by individuals and by groups of people working collectively.

It seems to me a little easier to assess your attitude to the revolutionary process because certain questions come to mind which settle it for you. The most obvious is,'whose side are you on in the first place?' Once you have got that straight your attitude to the revolutionary process becomes fairly straightforward. If you think the ANC are terrorists

> **'We have built up a culture of acquiescence which upholds the status quo by inculcating the myth of democracy and encouraging a reverence for passivity'**

then clearly you support Botha or de Klerk. The second question is, 'which is the lesser of two evils?'. It does not necessarily follow that a revolution will offer a good and a bad side. Take an Islamic revolution against a military dictatorship, for example. The third question is, 'will the revolution succeed or fail?' because an adventurist attack upon an established government might lead to a higher degree of repression than if there had been no attempt at revolution.

If you look at the other question, which needs to be differentiated from it, namely the relationship between conscience and the law, it raise central questions that have to be faced by all citizens in a democracy and cannot be submerged behind a blanket demand for obedience in the interest of law and order.

Non-violent civil disobedience has had a very long history in the politics of Britain and elsewhere. Many of our most precious religious and political rights in this country were won by conscientious law breaking. There is no moral obligation to obey an unjust law, but those who decide to defy such laws on moral grounds must expect to be punished. The ultimate sanction against injustice lies within each of us and in the end all political choices have a moral content and have to be made by individuals acting as they think right.

Democracy and socialism in Britain are built upon three principles which we have struggled to establish. The first is the supremacy of conscience over the law; the second is the accountability of power to the people and the third is the sovereignty of the people over parliament. These principles are now under direct attack by those who come forward with the law and order argument. The Common Market question comes into the equation as well.

It is important to trace the supremacy of conscience over law back to the idea that if you are all brothers and sisters under the Fatherhood of God then you have a moral obligation to each other. I am going to embarrass you by quoting form the Prophet Amos who introduced the idea of righteousness (I sound like Billy Graham). In Chapter 5, verses 21 and 24 he said, 'I hate, I despise your feast days and I will take no delight in your solemn assemblies. But let judgment run down as waters and righteousness as a mighty stream.' As a criticism of materialism, it is strong stuff, but the idea of righteousness having a force of its own, independent of what the law may require, is an important ingredient in the idea of conscience. It is the root of many people's faith, whether they know it or not.

Now there was a Liberal, no relation, called Lord Wedgewood who was a contemporary of my father's and joined the Labour Party, as did my father. In 1942 he wrote *A Testament to Democracy* in which he said, 'Conscience created the public opinion of the law makers of Victorianhood and they put individual conscience above the law and I am well content to think that the British are now the champion breakers both of law and of public opinion. Acts of Parliament do not make things right or wrong. The suffragettes, like Mr Gandhi, gloried in jail, while to have defied the police is almost a sine quo non in parliament.', (for a Labour leader, that has marginally altered in recent years), 'We see how laws are made and how soon most of them die and we treat them with perhaps excessive levity.'

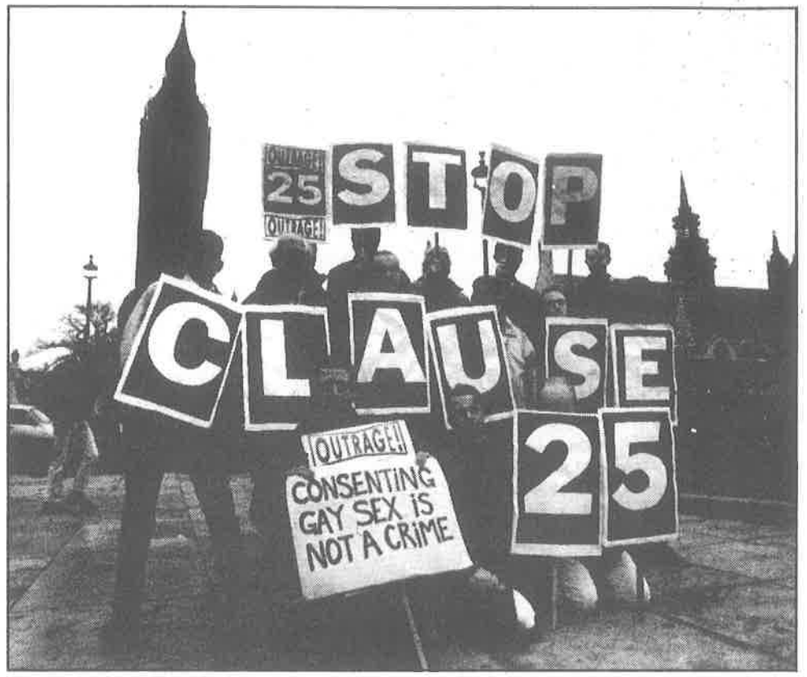
I hope I have helped to establish that those who feel this way about conscience being above the law are not alone. The concept rests on the belief that our prime duty is to each other; and if this leads individuals into conflicts with the law, as it often has in trade union disputes, those individuals must be ready to take the consequences. In a democracy, no-one should tell another to break the law nor should any person break the law to by-pass parliament. But a person who is punished for breaking an unjust law may and often does create the demand for that law to be changed.

Any elected government has the power in our society to make laws, but it is not just the making of laws but the creation of consent that will make those laws workable, that is an integral part of the democratic process. If you take the poll tax rebellions, they have reawakened the whole argument.

The Labour movement as a whole has been persuaded over many years of the following propositions: that Britain

is a democracy, which is highly questionable; that parliament has control over the government, which is certainly not true; that all extra-parliamentary activity is undemocratic and anti-parliamentary. We have built up a culture of acquiescence which upholds the status quo by inculcating the myth of democracy and encouraging a reverence for passivity and that is at the heart of the whole approach to this particular question.

If you look at Britain's democratic credentials, you ask yourself the question, are we or are we not a democracy? Firstly, we are not citizens, we are subjects and there is all the difference in the world between being told that you are born a subject of the Queen and being told that you are a free-born English man or woman. Secondly, we do not elect our Head of State, our Second Chamber or play any part whatever in supervising the appointments of judges or magistrates. We are only allowed to elect one third of our constitution and the relevance of it is that the prerogatives of the Crown are a the disposal of the Prime Minister and totally by-pass the entire parliamentary process. By the



> **A new constitution may remove some of the institutional obstacles to change and undermine the myths which we allow to imprison us.**

prerogative of treaty making the Crown, through the PM, can go to war without consent of parliament. There is no War Powers Act as in the US and the Falklands taskforce was sent out without a vote in the Commons. The use of force against Iraq will not require the Commons to agree. Treaties are signed without the consent of parliament. When Edward Heath signed the Treaty of Accession in Brussels in 1972, it had not even been published. The Prime Minister appoints the Archbishop, cabinet ministers, members of the House of Lords. The last nine Prime Ministers have appointed 827 people to the Lords, yet it takes 43 million to elect 650 MPs. And so it goes on, with the appointment of all the bishops, the Chairman of the BBC and of the IBA and of the judges.

I have been examining how this system is held together. People very rarely speak about it, so I have been researching the oaths we take. People do not normally take oaths very seriously. George Blake, who has been in Russia for 25 years, has published his memoirs and the cabinet office told the publishers he still has a lifelong obligation of confidentiality to the Crown. I have been collecting these oaths because it is part of the mystery of our constitution which is rarely unravelled.

If you are a Member of Parliament, you have to swear an oath; 'I swear, by Almighty God, that I will be faithful and bear true allegiance to Her majesty Queen Elizabeth, her heirs and successors, according to law, so help me God'. It is a legal requirement. If your are in the armed forces, you add at the end, 'and will observe and obey all orders of Her Majesty, her heirs and successors and of the generals and officers set over me.' I have not got the judges' oath, I lost it in my excitement tonight, but there is that of course. As you get up the ladder and become a Privy Councillor, then the most horrific oath occurs. I asked not to take it and they said, 'well you don't have to take it, Tony, but you won't be Postmaster General', and I capitulated. I have never understood the 'administration of oaths' until I stood there and they injected it into me! Yet I suppose if words mean anything, I am bound by that. After all, you are a lot of lawyers here.

Well, I drafted a bill called the Democratic Oaths Bill. It is a bill to provide a new oath to be taken by the Crown and all others holding positions of authority. I took little bits from every oath and this is it: 'I solemnly declare and affirm I will be faithful and bear true allegiance to the people of the United Kingdom according to their respective laws and

> **... democracy would not survive at all in Britain unless people generally disregard the law ...**

customs preserving inviolably their civil liberties for the democratic rights of self government through their elected representatives in the House of Commons and will faithfully and truly declare my mind and opinion on all matters that come before me without fear or favour.'

The point I am really getting to is that democracy would not survive at all in Britain unless people generally disregard the law and no part of the law can be more solemn than an oath. We are all surrounded by oaths that have no meaning.

The truth is, there is no commitment in this country to democracy whatever; no recognition of human rights; no acceptance of conscience. We need a new constitution.

There must be a charter of rights. To those who think the courts are the best place to administer it, I would say that parliament historically has been more ready to change the law than the courts to liberally interpret it. This country should be a democratic, secular, federal commonwealth. I have drafted a new constitution to that effect, which I laughingly call the first draft, because it is the first one I dared show anybody.

If British democracy is the myth which it is, then the legal and administrative framework within which we live is not really made by us; and in a moral sense, we cannot really owe allegiance to what we do not create or sustain. But in saying that, it is not a recipe for anarchy because I am not arguing for revolution, but appeal to people to demand their rights. We are a very passive country, which shows very little interest in matters of fundamental importance to it. We must examine and challenge and defy and campaign where appropriate. The American Constitution did it; the people after the French Revolution did it; the Russians are now in the process of doing it. We have to try to move constitutional questions from the margin of affairs into the centre. I am not arguing that a new constitution is a substitute for the unending struggle for justice, but that a new constitution may remove some of the institutional obstacles to change and undermine the myths which we allow to imprison us. And it may seem strange to you, but when I began just sitting down with a pen and realising I was free to recommend anything because it was my pen and my paper, I felt a great surge of confidence come over me. And until we have the confidence to look at how we are governed and say we do not like this and that and we want that and the other, we are never going to have the confidence to make any real changes at all.

Tony Ward

Private Prisons – The Hard Cell

In the wake of Strangeways the Criminal Justice Bill provides for the private running of new remand prisons. Tony Ward weighs up the government's proposals

After three years of vacillation over the issue of private prisons, the government has included in the Criminal Justice Bill provisions allowing private companies to provide remand prisons, prisoner escort services (taking prisoners to and from prison) and court security officers.

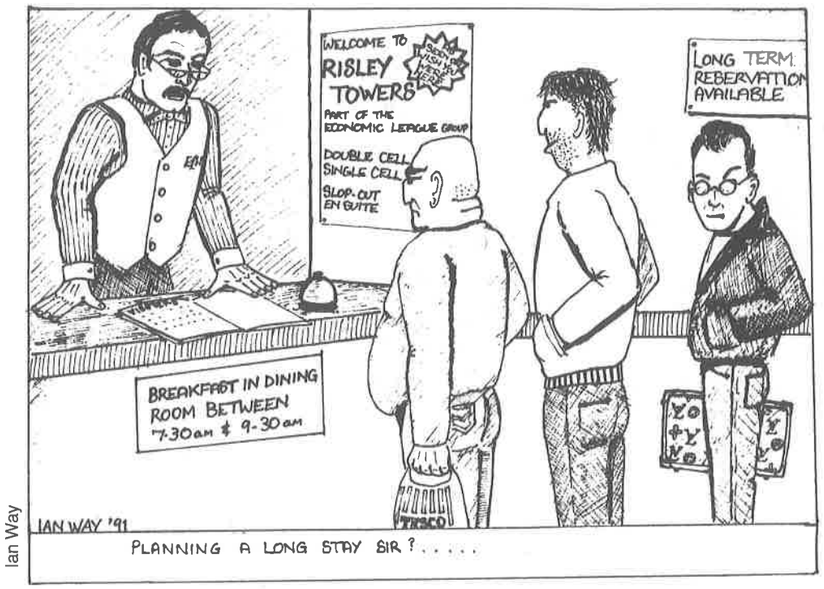
The Bill does not allow for the privatisation of existing prisons, which must be a blow for advertisers hoping to carve a name with a catchy slogan to sell off Brixton and Holloway ('Buy into what you're locked into'?). Under clause 65, however the Home Secretary will be able to contract out the running of any new remand prison. Any employee of a private company who receives a certificate of approval from the Home Secretary will be able to serve as a 'prisoner custody officer' in a remand prison or escort service. Unlike prison officers, prisoner custody officers will not technically have the powers of constables, but they will have the same effective power in, for example, strip-searching prisoners. The Bill also creates new offences of assaulting or obstructing a prison custody officer.

The directors of contracted out prisons will have similar powers to prison governors, with two exceptions -- clause 65 (2). They will not be able to inquire into disciplinary charges, conduct disciplinary hearings or award punishment;

nor, except in cases of urgency (undefined), will they be able to put prisoners into solitary confinement or use 'restraints' such a body-belts. These powers will be given to a public official, the 'controller'. At least, that seems to be the intention, although the Bill is unspecific about the controller's powers, leaving them to be spelt out by Prison Rules.

The controller is also supposed to act as a 'watchdog', obliged to keep the management of the prison under review and to investigate any allegations against prisoner custody officers. This division of functions between director and controller was proposed in a government commissioned report from the management consultants Deloitte, Haskins and Sells as a solution to the vexed question of the accountability of private prisons. Its major defect is that it relies on the controller both to act as an independent monitor of prison management, and to perform functions which are an integral part of that management. Such a dual role could easily lead to conflicts of interest.

For example, suppose that a controller orders a vulnerable prisoner to be placed in solitary confinement. The prisoner commits suicide, and allegations of neglect are made against officers. The officers might feel that the blame should rest with the controller as much as with them, but it will be the controller who investigates the case.



Ian Way

> **'the proposed mechanism for holding private remand prisons accountable are far from ideal'**

Independent officials can also easily get sucked into the culture of the institutions where they spend their working lives, and thus cease to be genuinely independent.

Clearly, the proposed mechanisms for holding private remand prisons accountable are far from ideal. But would they be any worse than the hopelessly inadequate mechanisms applicable to 'public' prisons? Especially if, as leaks suggest, the Woolf Inquiry into Strangeways proposes some sort of 'contract' between individual prisons and the Prison Service. If some pale imitation of contractual accountability is the best the State can offer within its own system, then the genuine contractual relationship between a private contractor and the Home Office might begin to look relatively attractive.

Similar problems arise in trying to argue against the privatisation of court security officers. The officers will have the duty to maintain order in magistrates' court buildings, with powers to search, restrain or forcibly eject members of the public; the Bill gives magistrates the option of contracting with a private company for these services. The Labour Party objects to these perform duties usually performed by the police, but without the accountability provided by the police complaints system. But in the event of a serious (i.e. criminal) complaint against a court security officer, there will presumably be a police investigation which, unlike the investigation of *police* complaints, will be genuinely independent of the body being investigated. So, who is more accountable?

To raise these awkward questions is not to deny that privatisation creates serious dangers. The lack of regulation of the private security industry, and the quality of staff it recruits, have been a cause of concern for many years. Schedule 7 of the Bill lays down that the Home Secretary shall not certify a person as a prison custody officer unless satisfied that s/he 'is a fit and proper person' and has been trained to an approved standard. But it is quite unclear how this vetting procedure is to work, or whether it will be anything more than a rubber stamp for decisions made by private companies.

What we can be sure of, from the Deloitte, Haskins and Sells report is that the private companies already expressing an interest in remand prisons intend to cut costs by reducing staff/prisoner ratios and relying more on electronic security measures. In view of the terrible problems of suicide and self-injury in remand prisons, further reducing human contact between prisoners and staff hardly seems wise. And recent events at Strangeways and elsewhere have reminded us of other consequences that can flow from unwise decisions by prison management. The prospect of a private company with only a few months' experience responding to a large-scale prison protest must surely be the Home Office's 'nightmare scenario'.

Another major danger of privatisation lies in the influence which commercial organisations may acquire over criminal justice policy. The private sector's skilful lobbying can take much of the credit for the Home Office's U-turn since Douglas Hurd rejected the idea of private prisons in 1987. Similar lobbying might be equally effective in defeating any proposal to reduce the market for remand prisons.

Some arguments against private prisons are better than others, but there are no good arguments for them. In the USA where the idea first got off the ground, there were administrative and financial reasons why, in some cases, it made a certain amount of pragmatic sense. In Britain, the motivation seems to be entirely ideological: to prove that Thatcherism still lives and that no state monopoly is sacred. The only possible benefit of privatisation is that it highlights how unaccountable some state monopolies are.

Clare Wade

Not Guilty in Wedlock?

For 254 years the principle of implied consent to sex by a wife has been firmly entrenched in English Law. Clare Wade looks at recent development in the approach by the courts and at the latest Law Commission Working Paper which unveils an outmoded doctrine.

The provisional conclusion of the *Law Commission Working Paper No 116* – that rape within marriage should be a criminal offence is welcome. At last the Law Commission has decided in favour of total abolition of the concept of implied consent to sex by a wife. This follows the half-hearted proposals of the CLRC and the Law Commission in the past, which could not break away from the idea that rape within a marriage could not be 'real' rape. After 254 years this doctrine at last looks like it is on the way out.


Guilt by association

Case law has been tentatively moving in this direction for some time. At present the law permits a wife to withhold her consent if it perceives the marital relationship as having terminated, where the wife has taken out an injunction against her husband, a decree nisi has been obtained or the couple are simply no longer living together. The case of *R v Roberts* in 1986 [1] displayed a judicial reluctance to allow the niceties of the criminal law to take precedence over the protection of women. In it the argument that when a non-molestation order expired, implied consent on the part of the wife was automatically revived, was rejected, albeit 'on the facts'. This was emphasised last year is *R v R*, [2] when Owen J ruled that termination of 'marital' consent might in itself be implied from conduct ceasing to co-habit, and that there was consequently no need for a formal withdrawal of consent, for example, by a decree nisi. Owen J found the concept of implied consent as 'offensive as it was idiotic'.

> **'Owen J found the concept of implied consent as offensive as it was idiotic.'**

The law draws the line, however, at non-cohabitation. The only recourse available to the rape victim who is not separated from her husband is to prosecute him for indecent assault, assault, affray or false imprisonment. It is illogical that the law makes the acts which are preliminary to and necessary for the rape to take place illegal but permits the very act they are designed to achieve. Such charges are clearly an inadequate substitute for charges of rape. This was recognised by Auld J last year in *R v Henry* [3], in which he struck out from the indictment charges of indecent assault and false imprisonment. He thought it 'highly artificial to seek to overcome what may be a serious deficiency in the law by charging offences of affray or false imprisonment' and concluded that 'the remedy is to change the law, not to strain it'.

A classic argument against incorporating rape within marriage into the criminal law has been that allowing wives recourse to the criminal justice system would mean that 'differences' in the marital relationship would stand no chance of being patched up. Denying a woman that recourse upon this pretext not only means that she is implicitly coerced into taking responsibility for the actions of men but that the environment in which she has suffered abuse exists at the expense of her identity and integrity.

The Law Commission rejects this excuse together with the evidential difficulties referred to in the past by the CLRC. For the Law Commission 'difficulty of proof, issues of evidence and proof in marital rape cases are no different from those arising in many criminal cases'. After all, the paper claims, courts are capable of identifying correct testimony. Indeed, there is less scope between married couples rape when dealing with the traditionally grey area of consent. The Commission argues that a husband would be less able to contend that 'he had failed to appreciate indications on the part of the wife that she did not consent than in cases where there had been a less intimate relationship'.

One question raised by the Commission is now far it will be necessary to change existing law on evidence in order to accommodate the new offence. For example, should section 80 (3) of PACE apply to make the wife a compellable witness? Some argue that if a woman is left with no choice as to whether to give evidence against her husband she retains no power over the situation and would be dissuaded from initiating a complaint. The better view is that marital rape in this respect is indistinguishable from other violent crimes committed by one spouse against the other for which a woman is a compellable witness under section 80(3) . It is not a private concern but one for society as a whole. The most obvious reason for making a woman a compellable witness is that rape victims who are not married to their assailants are compellable, and the compellability of a wife is in turn consistent with the principle that rape within marriage is as traumatic as any other rape.

It is over 250 years since the principle of implied consent was first stated in *Hale's Pleas of the Crown*. Let's hope the Government moves speedily to implement the Law Commission's recommendations

References

1. *Rv Roberts* (1986) CLR 188
2. *RvR* (Unreported) Leicester Crown Court (30 July 1990)
3. *RvHenry* (Unreported) Rutley Crown Court (14 March 1990)

Clare Wade convenes the Womens Sub-Committee which meet on the 4th Tuesday of each month at Panther House, 38 Mount Pleasant WC1.

John Wadham

The McKenzie Rejected – A Fairweather Friend

> It is moreover always, to my mind, in the public interest that litigants should be seen to have all available aid on conducting cases in court surroundings, which must of their nature to them seem both difficult and strange. [1]

The Loss of a Right?

The intense pressure on magistrates' courts to process hundreds of thousands of poll tax liability orders has resulted in a system of second rate justice. Legal aid is not available so individuals are left to rely on their own resources. In some cases these defendants have been supported in court by friends, para-legals and anti-poll tax campaigners.

The Divisional Court has recently decided [2] that the 'right' to have a friend in court to support, take notes, give advice and quietly make suggestions is subject to the discretion of the court. This view is contrary to that of many lawyers including the editors of Stones Justices' Manual. [3]

The original case giving such a 'right' was that of *Collier v Hicks* [4] where the Lord Chief Justice said: 'Any person, whether he be a professional man or not, may attend as a friend of either party, may take notes, may quietly make suggestions, and give advice; but no one can demand to take part in the proceedings as an advocate, contrary to the regulations of the court as settled by the discretion of the justices. [5]

> **'The courts are obviously aware that they are a battleground for the political issues surrounding the implementation of the poll tax.'**

This statement was only *obiter dictum* but was followed in the leading case of *McKenzie v McKenzie*. [6] Here the wife in matrimonial proceedings was represented while the husband, who had initially been legally aided, was now being helped by an Australian lawyer previously involved in the litigation. Davies LJ said: 'No doubt the 'friend's' assistance would have been of great value to the husband in the hearing of this case, which was very complicated and lasted some 10 days or so. There was a very long history, and it was a difficult case for a man with an untutored mind to conduct. In addition to having no effective knowledge of legal affairs, there was a good deal of difficulty in communication and in understanding these parties.' [7]

A further case of interest is that of *O'Toole v Scott* [8] which decided that magistrates' courts have a discretion to allow representation by persons other than lawyers.

Friends in Poll Tax Cases

The latest case concerns a Mr and Mrs Barrow who were summonsed to Leicester Magistrates' court for failing to pay their poll tax. They wanted to resist a liability order because they had not received the requisite notices. [9] They explained their problem to Mr Robert John, a member of a local anti-poll tax group with expertise in this area. They wanted him to act as a 'McKenzie friend'.

On the day of their hearing a number of other people wanting 'McKenzie friends' were refused by the magistrate. The Barrows therefore went to Leicester Rights Centre who sent a solicitor to court with them. She submitted that they were entitled to have the assistance of a friend in court. No allegations were made about Mr John's conduct and the Justices knew nothing about him.

After some argument the application was refused, and the Barrows went on to represent themselves. The High Court affidavits indicate that they tried to argue over the service of the notice but were unable to cross-examine the council's officer effectively. A liability order was subsequently imposed. The Leicester Rights Centre sought judicial review of the liability order on the basis that the applicants had not had a fair hearing because they were denied the assistance of a 'McKenzie friend'. Liberty (the National Council for Civil Liberties) took over the case after leave had been obtained.

Other Problems

Liberty has received a considerable number of letter complaining about the practices of magistrates' court in poll tax cases. Apart from the frequent refusal to allow 'McKenzie friends' there have been many other breaches of natural justice and due process. These include magistrates being unnecessarily restrictive in denying the public access; cases listed in blocks of ten, so that defendants are not being allowed to question evidence properly or challenge the case; and particular defences being disallowed without proper consideration.

These breaches of law stem from the pressure on courts to process large numbers of cases and to rubber-stamp the decisions of local authorities. The courts are obviously aware that they are a battleground for the political issues surrounding the implementation of the poll tax. It is unfortunate that a considerable number of courts have chosen to take their lead from the needs of the executive. Not every court is acting is this way, although it is difficult for any magistrate to ensure a fair and just hearing in the few minutes available for each case. However sympathetic we are to their plight, if magistrates cannot dispense justice in such cases, they must take action to stop the use of the courts in this way.

In many poll tax cases, defendants are using the only available forum to express their views on the imposition of the tax and its effect on their standard of living. It may be that neither of these constitutes a defence to an application for a liability order. However it is Liberty's view that magistrates, in being ever vigilant to prevent the use of the courts as a political platform, often miss important legal issues. They have as a result abandoned their constitutional role in providing a check on the executive. It is hard not to agree when poll tax defendants tell us they cannot trust the magistrates' courts to ensure a fair and just hearing.

The Trafalgar Square Defence Campaign

Liberty has written to the Lord Chancellor, the Home Secretary and the Lord Chief Justice requesting them to issue guidance to the courts to put a stop to some of the worst abuses. They have all refused and have stated that it is not for them to do so.

More Friends Arrive

Ironically, in the judicial review of the Leicester Justices the Divisional Court itself felt in need of a friend. Neither the Leicester Justices nor the Leicester City Council were represented and the Treasury Solicitors' Department instructed counsel to appear as an amicus curiae - a friend of the court. During the hearing he told the court of widespread concern that the 'McKenzie friend' procedures were being, or had the potential to be, used as a means of causing substantial disruption and delay to cases, and thereby to the collection of the community charge. He said that this wider concern should be taken into account when the court formulated any relevant general principles.

In support of these concerns a number of letters from magistrates, their clerks and their associations were read out in court. For instance:

> 'I am told by the clerk that the self-elected McKenzie men often intercept defendants outside court and obstruct attempts by local authority representatives to reach some sort of conciliatory agreement. Furthermore, its 'helpers' urge defendants to appear in court and to seek McKenzie assistance'.
>
> 'If the court is vigilant to exclude all political and moral issues, orders can be made more quickly'.
>
> 'Unless the rules are strengthened, there must be a possibility of the rule being used to defeat the efficiency of the courts and, in the hands of a group or section of our society that would like to take advantage of how our courts operate, then this must seem a very useful 'tool' indeed'.

Of course the Barrows' case was not about the right of Mr John to *represent* them but only to advise. In those circumstances the magistrates' court has ample powers to control delaying tactics, irrelevant cross-examination and spurious legal argument.

Courts in Future

The Divisional Court decided that the Barrows did not have a right to have Mr John help them in court and as a result discarded the role of 'McKenzie friends'. Presumably there will now be a succession of judicial review cases to test out the limits of this discretion. Liberty is hoping take the Barrows' case to the Court of Appeal.

Poll tax defendants cannot obtain legal aid for representation in the magistrates' courts. The Legal Aid Board did ask the Lord Chancellor's Department to change the rules so that the duty solicitors scheme could cover the hearings but this was refused.

From now on, litigants without lawyers (in magistrates' courts), will need to rely on the court's goodwill. When the battle over the politics and ideology of the poll tax takes place in the courts it is very unlikely that magistrates will exercise their discretion properly. As a result people will be refused the support that they badly need.

Cases in next stage of this battle in the courts are already being decided. The first defendants have been sent to prison for non-payment. The prospect for justice in our magistrates' courts do not look bright.

References

1. Lord Justice Sachs in *McKenzie v McKenzie* [1970] 3 All ER 1034 at p. 1039
2. *R v Leicester City Justices ex parte Barrow and Barrow* (1990). The Guardian, 16 January 1991
3. For instance see The Magistrate, November 1990
4. (1831) 2B & Ad 663
5. Page 669
6. [1970] 3 All ER 1034
7. Ibid p. 1037
8. [1965] AC 939
9. The Community Charge (Administration and Enforcement) Regulations 1989, reg 28

REVIEWS

THE CONCEPT OF SOCIALIST LAW

Christine Sypnowich
Clarenden Press, Oxford, 1990
£25.00 hardback.

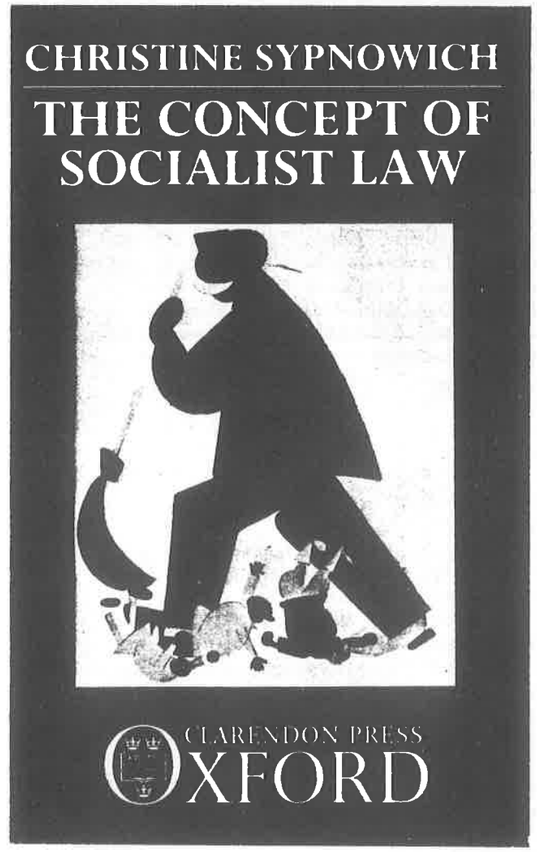
With the collapse of many of the regimes in the Eastern block many countries, such as Czechoslovakia, will be reshaping their laws and rebuilding their legal institutions in the 1990's. Already, leading liberal lawyers from the West have been invited to advise and participate in this process. By and large, socialist lawyers have not been invited. One of the many reasons is that the Left has traditionally shied away from developing theories and concepts of law. Sypnowich's book which aims 'to refute the idea advanced by socialists, and particularly Marxists, that an ideal socialist society would have no need of law' is therefore timely.

Sypnowich does not seek to reject Marxism but to adopt it. She carefully takes the reader through various theories and concepts of 'mainstream' liberal jurisprudence, such as the rule of law and fundamental human rights, to see whether they can and should be adapted by Marxist theories of socialism. The difficulty for the reader in evaluating Sypnowich's thesis is that she does not, at any stage, attempt any definition of socialism beyond the notion of a society in which private property in the form of capital has been eliminated and replaced by the common ownership of the means of production. In defence of this strategy, the author states that a more detailed definition would prejudice her analysis which 'by setting out why a socialist society would need legal institutions seeks to enrich our understanding of socialism itself'. Methodologically this may be true but it ultimately leads Sypnowich to a formulation of socialism according to law.

Having refused the Marxist rejection of law Sypnowich moves to a 'primary' conclusion that even in a society where there is shared ownership of social resources, pervasive equality and a thriving democratic culture, there remains a place for law. So far so good. but in taking her next step Sypnowich outsteps her own strategy and the reluctance to define socialism becomes crucial.

Unhappy about the limited nature of her first conclusion Sypnowich asserts that law not only has a role within a socialist society but is, in fact, an essential pre-condition of its attainment. This is a major theoretical leap. Moreover, it is a leap in the dark, since no attempt is made to assess the content and processes of socialism itself. Sypnowich's reluctance to objectively define socialism leads her to a position where she is in fact defining socialism by reference to the constraints that the legal order itself will place upon it. This is putting the cart before the horse and invests in law and legal institutions a priority within socialism which cannot be justified according to the strategy of the book itself (and perhaps not at all). This is a shame, since the book re-opens a major debate about law which all those on the Left should engage in. Only when a concept of socialist law is developed will socialist lawyers join their liberal colleagues in the unfolding theoretical debates of the 1990's.

Keir Starmer



TRIAL OF LADY CHATTERLEY
R v Penguin Books Limited
Edited by CH Rolph
Penguin Books £5.99

The inherent ambiguity of this book's title provides an insight into one of the most interesting and exasperating aspects of the trial itself. Was this a trial of the book's publishers, or of the woman who was the book's leading character? On reading the speeches and cross-examination by Mervyn Griffith-Jones, Counsel for the Prosecution, it appears to be not the book but Lady Chatterley herself on trial, for 'setting upon a pedestal promiscuous and adulterous intercourse'.

Lawyers will inevitably find this book a compelling read, not least because of the temptation to suspend one's disapproval and re-prosecute the case. There has been so much criticism of Griffith-Jones – some of his more outrageous observations have entered legal folklore – that it is fatally attractive to see if one could improve upon his performance. However, it is important to see one of his major flaws in conducting the case – that of equating sexual intercourse with depravity – in its historical context. The trial took place at the beginning of what proved to be an iconoclastic decade. Mr Griffith-Jones was simply oblivious to the sea-change.

It is on this aspect that Geoffrey Robertson's foreword to the book provides a cogent reason for buying this commemorative edition. If ever a foreward fulfilled its purpose then this one does; its author skillfully conjures the repressive atmosphere of the period and gives a superb account of the trial's importance then and now. I do have two criticisms however. Firstly, he is surprisingly generous towards Griffith-Jones in a way which side-steps the advocate's obvious *belief* in much of what he was saying; not just the man's class but his sense of moral superiority shine through his cross-examination of expert witnesses as much as his addresses to the jury. Secondly, I am at odds with Mr Robertson's assessment of CH Rolph as a 'sure guide to the art . . . that characterises the greatest advocacy'. On the contrary I found the editor's comments for the most part obtrusive and superfluous. It is for this reason that I prefer Sybil Bedford's account of the trial. That said, there was one occasion when I found CH Rolph's 'presence' illuminating; this was when he revealed the contents of a newspaper cutting upon which Griffith-Jones' cross-examination was curtailed. We then saw what the jury could not. Many of the questions asked and comments made during the course of the trial seem inconceivable now that four letter words abound in '15' certificate films and 'Lady Chatterley's Lover' is read in schools. But the unanswered question (unanswered in spite of CH Rolph's 'discreet discussions' with the jurors after the trial) still teases – did the jurors find that 'Lady Chatterley's Lover was not obscene, or did they find it obscene and invoke the statutory defence?

CH Rolph does not answer the question, but this is nonetheless an important book. It is a defence of the jury system. It distils the essence of the struggle between justice and the law, and of the fight to obtain justice under the law. It is above all a timely reminder of how the elitism inherent in the 'nanny state' is the very antithesis of democracy.

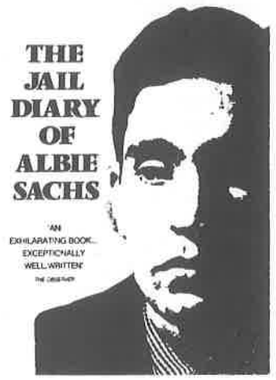
All this for £5.99 – slightly more than Penguin's originally intended price of 'good books at the price of ten cigarettes', but still worthwhile, don't you think?

Penny Barrett

THE JAIL DIARY OF ALBIE SACHS
Paladin Books, 1990
£4.99

THE SOFT VENGENCE OF A FREEDOM FIGHTER
Albie Sachs
Grafton Books, 1990
£13.99 (hard back edition)

In October 1963 Albie Sachs was detained without trial for a total of 168 days under the apartheid regime's Ninety Day law. He was a practising barrister in Cape Town. *The Jail Diary of Albie Sachs* tells the story of that detention. In April 1988 he was the victim of a car bomb placed in Maputo by agents of the apartheid regime. He had become a professor of law and was a leading ANC lawyer. *The Soft Vengeance of a Freedom Fighter* is his account of how he comes to terms with having lost an arm and an eye in the attack.



Autobiographies often appear self-indulgent and take the reader's interest too readily for granted. The reader of Albie Sachs need not make that complaint. Sachs' writing is clear, absorbing and human. Both books are openly emotional and proud of it. The author makes no attempt to mask his character, his desire for attention or approval; there is no pretence that he is without doubt. In the first book he questions his ability to withstand interrogation and whether he will be able to continue living in South Africa. In the second, he takes us through his agonising decision whether to wear an artificial limb. Sachs writes of the trauma of taking a bath and the anger it causes him. Although he admits his weaknesses, he is not diminished by them.

Anyone who heard Albie Sachs give the Pritt Memorial lecture in 1988 will remember it being delivered with much warmth and determination. Both books, but particularly the second, convey that same feeling. Haldane meetings organisers might note his complaint that meetings in Britain lack style. In Mozambique, even the simplest room was decorated with a pot plant and a cover on the table together with songs to start the meeting.

British socialists should reflect upon the themes of both works. Revolutionaries should not just like life, they should love it. Sachs clearly does that. We should note his criticism about lack of style. His is a quiet but confident faith in the values the democratic movement is fighting for. If his bomber were put on trial and acquitted, it would indicate the superiority of those values.

Both books have their roots in a culture of resistance rather than in a cult of personality. They are accounts of apartheid repression told by one of its countless victims and are representative of a determination of the people of South Africa to win their freedom.

Mark Guthrie

BLACK MASK LUXURIATES IN LEGAL SOAP

The courtroom drama has been an enduring feature of movies, television and plays, both serious and comic, for a very long time. Oddly, it has not worked as well on TV as in the theatre or on the big screen. The only really long running lawyer series have been *Perry Mason* and *LA Law*.

I thought Helena Kennedy's Blind Justice was brilliant and would welcome its return. There have been other TV lawyers over the years with interesting characters – remember Main Chance? – or stories such as a recent drama starring Denis Lawson as a Glasgow lawyer? They present little theory or practice of law.

Not that the great Perry Mason himself practised much law. His innocent client, in the dock, always accused of murder, is rescued when Perry's redoubtable secretary Della Street or his loyal assistant, whose name escapes me, comes running in waving pieces of paper which prove somebody else did it. The long boring afternoon in court is interrupted and an acquittal is inevitable. Now I have not seen an episode of PM in many years, and I may be wrong, but this is how I remember it. I doubt if the jury ever even went out.

LA Law of course, is a whole different story. Instead of the lawyer as individual crusader we have a whole firm. There are some murder cases but we also get divorces, personal injury and even non-litigous matters. We have a group of partners, assistant solicitors and even support staff, not exactly working as a team but at least rubbing shoulders in an ordinary officey sort of way. Of course it is very glamourous and, decor-wise anyway, different from our legal aid practices but there is something that we can all relate to.

Real lawyers love LA Law. My dear partner (in domestic life) and I always sit down together to watch, hold hands and laugh. A brief survey of our respective chambers and firm indicates that our colleagues, including the most critical and highbrow types are similarly addicted. I have heard of a group of lawyers who had an LA Law party, each coming as a favourite character to eat that appetising breakfast around a big table and present a fictional type case. A friend likes to quote his favourite line to the LA Law jury –'Find for the plaintiff and find big'. I have read in the *NY Times* that in the US, lawyers' practises have been affected by the series. They make shorter, more dramatic speeches and dress sharper.

I like LA Law because it is a pleasure to contemplate a legal world where there are as many black, women, youngish judges as old, white, male specimens. Interesting and important legal issues are presented in an entertaining way. The acrimonious partners' meetings with discussions about losing clients and 'billable hours' make me laugh. It's nice to have characters covering a large range of age and experience and enough variety in their personalities for viewers to have different favourites.

But what now? At the time of writing we left the partners in debt after their disastrous spell with the dreadful Rosalind, feeling anxious and insecure but united in their liberal and uncorruptable values. While we wait we get re-runs. These indicate that the characters have changed a lot over the years and have become a lot nicer. Too nice for my taste.

The original Douglas Brackman, the partner who everyone hated, with his obsession with timekeeping, money making and wastage of stationery, a recognisable and realistic type, has tuned into someone with more bark than bite; more interested in his sex therapist than missing pencils. Arnold Becker – aggressive, insecure, a wonderful oily sleazeball given to phrases like 'trust me', has stopped screwing around with his clients and has settled down in a meaningful relationship with someone of the right age.

Abigail Perkins has put her chaotic personal life behind her, given up getting hysterical in front of clients and is as power dressed and smoothly professional as Ann Kelsey who has of course become a lot softer since becoming a Mom. Even Roxanne the archetypical put upon indispensable secretary is putting up with less these days.

So is LA Law selling out? I'm afraid so. But I can live with it. I still can't wait until the next series starts.

Black Mask is **Beth Prince** and she would welcome suggestions for books/films/programmes to review.

noticeboard

PUBLIC MEETINGS PROGRAMME

14th March
WOMEN IN SPECIAL HOSPITALS

Speakers: Dr. Andrew Horne (Broadmoor Psychiatrist)
Pru Stevenson (WISH)
Guest speaker talking about her own experience inside a Special Hospital.

26th March
PLURALISM AND HUMAN RIGHTS IN SUB-SAHARAN AFRICA

Speakers: Margot Boye-Anawoma (Barrister; Junior Council in trial of Dr. Safo-Adu, Movement for freedom and Justice, Ghana)
Wangui Wa Goro "Umoja", Kenya
Ola Fasanmi (Political Scientist, Nigeria)

9th April
BLASHEMY – A BASTION OF CHRISTIANITY?

Speakers: Michael Grieve (Barister)
Sibghat Kadri, QC
A possible third speaker to be announnced.

All meetings are at the London School of Economics, Houghton Street, London WC2, at 7.00pm unless otherwise stated. Admission free to members; £1.00 to non-members

UNSHACKLE THE UNIONS, FIGHTING THE TORY ANTI-UNION LAWS

Saturday 27 April, 11am - 5.30pm

£5 waged/£3 unwaged
University of London Union, Malet Street, London

The Haldane Society, the Socialist Movement Trade Union Committee, the Solidarity Network and Labour Party Socialists jointly present a conference on the Employment Act 1990.

Speakers include:

Ronnie McDonald	(Offshore Indus tries Liaison Committeee)
Micky Fenn	(sacked Tilbury docker)
John Wood	(sacked P&O seafarer)
John Hendy QC	
Damien Brown	(Haldane Society)
Steve Gibbons	(Haldane Society)

The Conference will include workshops to discuss the various aspects of the Act, its effects and how to oppose it. Those interested in attending should contact Carolyn Sikorski, 53A Greere Road, London E15

NORTHERN IRELAND SUBCOMMITTEE

Speaker meetings over the past year have covered the Fair Employment Act, the Winchester Thra Appeal, the Danny McNamee Appeal, the Prevention of Terrorism Act 1989, the Britain and Ireland Human Rights Project plus other topics. Many have led to increased campaign work and research. Contact has been established with individuals and organisations concerned with Ireland and civil liberties.
If you would like to participate in the work of the sub-committee, please contact Piers Mostyn (c/o the Haldane office).

MANCHESTER BRANCH

The MANCHESTER BRANCH of the Haldane Society meets on the 2nd Wednesday of every month at Manchester Town Hall, Albert Square, Manchester. For more details, please contact Bernadette Baxter at 3 Peter Street, Manchester, M2 5QR, tel: 061-833 1900, fax: 061- 832 5027. For publicity/mailing please contact Anthony Coombes, c/o Old Exchange Buildings, 29/31 King Street, Manchester M2 6BE, tel: 061-834 1251, fax: 061-834 1505.

CLASSIFIEDS

ARTICLES WANTED

I am a law graduate from London of Asian origin and I am looking for Articles in September 1991. I have a solid academic background and good job references. I am not concerned about the area of specialisation. My contact is Mr Zia Akhtar 7 Williams Road London W13 ONS

LIBEL READERS

The Independent Publishers Group comprises some 30 small independent magazines/ journals. If you would like to libel read on a voluntary basis for publications within the group, please contact Katy Armstrong-Myers (071- 405 6114)

SL COLLECTIVE

The ***SL*** collective is looking for budding photographers who are prepared to provide graphics on a voluntary basis. Please contact Katy Armstrong-Myers (071-405 6114)

JOINT ANNUAL GENERAL MEETING AND CONFERENCE

This Year the Society's Annual General Meeting will form part of a day conference on the topic of:

THE LEGAL CHALLENGES OF 1992

International and Domestic Speakers will address the conference on issues such as:

Immigration Policies after 1992
Policing in Europe
Freedom of Information and Data Protection
European Trade Unionism
Women's Rights and Europe

Workshop sessions will discuss in detail case law and campaign in Europe. In addition the Conference will address the role of the International Association of Democratic Lawyers and joint work with other socialist legal groups in Europe. Delegations from France and Germany will be attending for these discussions.
In the afternoon the Society's business will be discussed along with proposal papers for the future of the Society.

SATURDAY 27 APRIL 1991

CENTRAL LONDON

(venue to be announced in a special AGM mailing)

All members are invited and encouraged to present resolutions to the AGM. All members are invited and encouraged to stand for the posts of Chair, Secretary, Treasurer or Executive Committee member (x12).

All nominations must be proposed and seconded by Society members. Resolutions and nominations must be in writing and sent to Keir Starmer at Room 205,Panther Hose, 38 Mount Pleasant, London WC1 X 0AP **before Friday 22 March 1991**

Membership Application Form

Complete this form (Block capitals please) and return it to: Tony Metzer/Steve Cragg, c/o Room 205, Panther House, 38 Mount Pleasant, London, WC1X OAP

Name

Address

Telephone number

Occupation

Work address

Special interests

Standing Orders Mandate

Please cancel all previous standing orders to the Haldane Society of Socialist Lawyers

Please transfer from my account No.

Address (of Branch)

to the credit of:
The HALDANE SOCIETY OF SOCIALIST LAWYERS, Account No 29214008
National Girobank, Bootle, Merseyside GlR OAA
(sorting code 72 00 05)
the sum of £8/£10/£12/£20/£30 (please delete as appro priate)
now and thereafter on the same date every year until cancelled by me in writing.

Name (in capitals)

Ref (To be completed by Membership Secretary)

Address

Postcode

Signed

Date

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The annual subscription rates are:

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