Socialist Lawyer

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Haldane Society of Socialist Lawyers

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The Haldane Society was founded in 1930. It provides a forum for the discussion and analysis of law and the legal system, both nationally and internationally, from a socialist perspective. It holds frequent public meetings and conducts educational programmes.The Haldane Society is independent of any political party. Membership comprises lawyers, academics, students and legal workers as well as trade union and labour movement affiliates.

Socialist Lawyer

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On the day Boris Johnson became Prime Minister 10,000 protestors blocked Whitehall in protest.

Number 82, June 2019

Playing our part

Among the less heralded achievements of the transforming Labour government of 1945 was the passing of the Legal Aid and Advice Act of 1949. The Attorney General at the time Sir Hartley Shawcross described the act as 'the charter of the little man to the British courts of justice. It is a Bill which will open the doors of the courts freely to all persons who may wish to avail themselves of British justice without regard to the question of their wealth or ability to pay.' And for a time it damn near did just that. Yet, as regular readers of this magazine know, as we mark legal aid becoming a septuagenarian, concerns for its survival are rarely far away. It is now the forgotten pillar of the welfare state.

Life at the coalface remains as precarious as ever as a number of articles in this issue attest. On page 9 the Community Law Partnership describes a five-year saga (in the truest sense of the word) in obtaining legal aid for one client. Wendy Pettifer marks the closure of Shoreditch county court with a poem and Declan Owens examines the response of the courts to the gig economy and the casualisation of labour in the UK.

Of course, none of this will be halted by the incoming administration of Boris Johnson containing as it does a cadaverous collection of ideologues whose ideas for a post-Brexit Britain include the return of the death penalty, scrapping the Human Rights Act, and preventing soldiers being investigated over historic allegations of war crimes. Happily, as our cover page illustrates, opposition to Johnson's politics is already mobilising. At a time when our public services are under strain as perhaps never before our movement must unite and take seriously the threat he and his cabinet embody.

Haldane members understand this well but sadly our colleagues at the criminal bar still struggle to learn the lessons of the age of austerity. In June, another potential period of action by criminal barristers was defeated after the Ministry of Justice agreed to increase some fees for prosecution work. The reckoning – long overdue – between the criminal bar and the Ministry of Justice was averted when, as before, barristers failed to recognise their industrial strength. Too often our colleagues think solutions lie in law when they lie in politics. 'Marxist Barrister' lampoons this tendency on page 42 and takes to task the prominent, achingly liberal members of 'barrister Twitter'.

At Haldane we are proud of our links across our movement. Many of our members were community organisers, trade unionists and welfare advisers before they became lawyers. We understand that the law plays its part in societal change but is usually catching up to where grassroots movements have navigated. We will need that collective experience and solidarity as much as ever in the months ahead.

Russell Fraser, chair of the Haldane Society of Socialist Lawyers, chair@haldane.org

Delegates (left) heard speakers including former UN Special Rapporteur Raquel Rolnik (centre) and Unite activist Dr Jackie Turner.

Housing campaigners address toxic link

On 30th March 2019 the Homes for All alliance held a special event (titled 'Bad Housing Makes Us Sick') to address the toxic link between bad housing and bad health. There was some anxiety about choosing a date the day after Brexit was due to happen. But we decided the issues at stake were too important to put off. We needn't have worried!

The way housing is too often marginalised in the national political agenda was one of the key conclusions from the meeting. There's a national emergency, with no national response. Too often, this leaves people suffering in silence, particularly those in sub-standard, insecure housing, often compounded by precarious employment. This situation particularly afflicts private renters. As Hannah Slater from Generation Rent told the conference, "private renters need proper rent control, more security and enforcement of repair conditions". The confirmed abolition of agents' fees and planned ending of 'no fault' section 21 evictions offers some hope and reward for determined campaigning. But the shortage of an alternative means the heavy legal imbalance between landlords and tenants in the private rental sector persists. As many in the audience said, the constant threat of rent hikes and eviction is a recipe for mental illness.

One purpose of the event was to bring campaigners from different sectors together. Dr Jackie Turner, from the doctors' branch of the Unite union, described the volume of housing related health problems at her GP practice. Fran Heathcote from the PCS union talked about the multiple dangers of Universal Credit, affecting her members both at work and at home. This theme was taken up by Ripon Ray, a Labour Party member and benefits advisor, and by Ellen Clifford from Disabled People Against Cuts (DPAC) who call for Universal Credit to be scrapped.

Another recurring issue was the impact of large-scale redevelopment projects. This ranges from noise and pollution to the destruction of working class communities in the name of 'regeneration'. Scores of council estates around the country are threatened with full or partial demolition, invariably leading to displacement and a net reduction of genuinely affordable rented homes, again with real, but often unrecorded, consequences for people's health and wellbeing. Opening the conference, former UN Special Rapporteur on housing, Professor Raquel Rolnik, said "we feel the global trap of housing as a commodity in our bodies and communities. We must cut the link between housing and finance".

One way of doing that is to restore council housing to the policy mainstream. Despite four decades of attacks, it's still the most successful form of rented housing, offering the inter-generational benefits of a stable, secure home with a democratically accountable landlord. But there was frustration at the meeting that the Labour Party is giving too many mixed messages on housing, including failing to make a clear commitment to council housing. As Dawn Foster from *The Guardian* said, "we're at a tipping point. But our arguments are winning – that housing should be a right and for a national council house building programme".

Glyn Robbins (contact Homes For All at: info@axethehousingact.org.uk or on 07432 098440)

March

11: After the collapse of Carillion, mounting criticism of the 'big four' accounting firms and a growing appetite for regulation of accounting sector, the government announced that it will replace the Financial Reporting Council with a more powerful 'Audit, Reporting and Governance Authority'.

27: The High Court dismissed a claim challengingt the rate of 'wages' 'paid' to 'workers' detained in immigration detention centres of just £1 per hour. In *R (Morita) v SSHD* Murray J said that, while he sympathised with those receiving less than one-seventh of the national minimum wage, the rate was lawful.

April

3: Controversial injunctions restricting anti-fracking protest were declared unlawful by the Court of Appeal.

15: The new Legal Sector Workers' Union jointed the radical member-led United Voices of the World union. Lawyers will now organise with precarious, low-waged (and often migrant) workers across a number of sectors.

Picture: Jess Hurd / reportdigital.co.uk

British firefighters, members of the FBU, protested in May outside the Italian Embassy in London in support of Spanish firefighter Miguel Roldan, accused by the Italian government and far-right politician Matteo Salvini of aiding human trafficking and illegal immigration – he was helping to rescue drowning refugees in the Mediterranean. He could face 20 years in prison. The FBU's Matt Wrack said: "The charges against Miguel must be dropped. Across Europe, Salvini and politicians of his ilk are spreading hatred. We will not allow racists and fascists to divide us. We stand with those fleeing war and terror who seek safety, refuge and security."

We need social security not sanctions

It was reported in the *Financial Times* in May 2019 that the Secretary of State for Work and Pensions Amber Rudd intended to cut the maximum benefit sanction period from three years to a mere six months.

Sanctions mean a reduction or even stoppage of benefits if the Jobcentre believes a claimant has failed to show up for appointments or look for work with the required dedication. Additional hardship is often caused by a knock-on cessation of housing benefit until the claimant can provide evidence of their newly straitened circumstances to the local authority.

The new limit to sanctions will come as cold comfort to the families of thousands of people who have already suffered life-changing and even life-threatening consequences in recent years after being denied benefits. But although even meagre reforms are to be welcomed, true change for the better will continue to elude us unless the government finally faces up to the inhumanity at the heart of our benefits system.

When I volunteered as a tribunal advocate for Employment and Support Allowance claimants represented by Greater Manchester Law Centre, I saw first-hand how the DWP takes decisions with effective impunity. Even though a staggering two-thirds of social security appeals are decided in favour of the claimant, as few as ten per cent of decisions are ever taken to appeal. The system operates on the assumption that a great silent majority will be too demoralised, too ill, or too lacking in support to bring an appeal. I have seen judges' jaws hit the floor when my clients arrived at the Civil Justice Centre barely well enough to answer questions, let alone look for work.

"True change for the better will continue to elude us unless the government finally faces up to the inhumanity at the heart of our benefits system."

Practitioners in criminal law will know that before imposing a fine on a convicted criminal, the state must have regard to their financial means and ability to pay. In contrast, when the Department for Work and Pensions decides to impose financial sanctions, there is no requirement at all that they consider the impact this will >>>

May

1: Following declarations by Scotland and Wales, the UK Parliament approved a motion declaring a "climate emergency". Ireland, Canada and France have since followed suit.

30: Half-way through the hearing of a judicial review, the Criminal Cases Review Commission agreed to withdraw its previous decision not to refer the Shrewsbury 24's case to the Court of Appeal

'Parents should have the final say on what they want their children to know.' Tory leadership candidate Esther McVey explains why children shouldn't be told about LGBT+ people

30: HMP Maghaberry, Co. Antrim, banned a new academic book, *Unfinished Business: the Politics of 'Dissident' Irish Republicanism* by Marisa McGlinchey, a research fellow in political science at Coventry University's Centre for Trust, Peace and Social Relations.

>>> have on a claimant's ability to eat, heat their home, or keep vital medication refrigerated

If the Human Rights Act does indeed become a target for reform once the dust of Brexit has settled, rather than losing cherished rights we could instead consider giving legal force to new rights – such as Article 25 of the Universal Declaration of Human Rights – a person's right to 'a standard of living adequate for their health and well-being', and the right to 'security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond their control'.

While representing some of the most vulnerable people in society is both a useful service and a rewarding experience for volunteers like myself, it is important that the state is not allowed to wash its hands of those it has so badly let down. No matter how talented and dedicated the Law Centre's staff are, financial constraints will always limit its ability to help some of those in need. That is why it is so important that the Law Centre receives support not only as a vital service today and tomorrow for those who walk through its doors, but also as a long-term campaigning organisation fighting for real change.

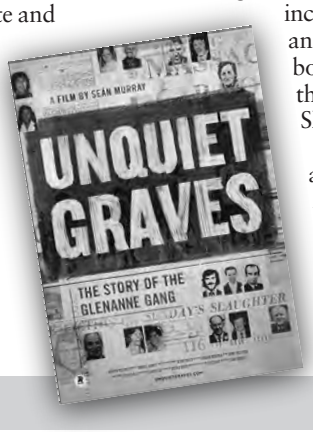
The current policy of social misery driven by austerity could never have been so devastatingly effective if it had not been accompanied by a parallel assault on access to justice, in particular legal aid. Indeed, it is hard not to see the cuts to legal aid for areas of law like social welfare law as a canary in a mineshaft, a grim omen for the direction our entire justice system is heading in. After all, if the government has so far been so successful in denying justice to benefits claimants that it would not be such a stretch to try the same with those caught up in the criminal justice system, where mental health problems, lack of literacy skills, and other vulnerabilities are endemic.

Happily, there is a rational solution to all this: restoring legal aid for social welfare law and abolishing the work capability assessment and punitive sanctions regime would of course benefit claimants, but it would also help

Film shows governments' murky role in the Troubles

The Haldane Society, in conjunction with the Connolly Association, had the honour of hosting a London screening of the film *Unquiet Graves: The Story of the Glenanne Gang* at the London Irish Centre on 23rd May 2019. In testament to the timely and powerful nature of the film's message, the screening received a great turn out on a warm May evening.

This important documentary combines talking-head interviews, archive footage, animation and poetry to convey the tragic details of how members of the Royal Ulster Constabulary (RUC) and a British Army regiment, the Ulster Defence Regiment (UDR), conspired in and were involved in the murder of over 120 innocent civilians during the Troubles. The film contains shocking revelations about the extent of state collusion in known sectarian killings and bombings, which involved the deliberate and politically motivated assassinations of ordinary working people and civilians – almost all of whom had no link with republican paramilitaries. The group, known as the Glennane Gang, operated with a deliberate agenda of terrorising innocent people, and their reach spread through counties Tyrone and Armagh and across into the Irish Republic, in a terror campaign that lasted from 1972 until 1978. The numerous shootings and bombings attributed to the group include the Dublin and Monaghan bombings as well as the Miami Showband killings.



It is made abundantly clear in the film that the highest echelons of the British government were aware of the collusion and permitted it. Even today that there remains a governmental refusal in both Ireland and Britain to properly pursue truth and justice for the families of those affected. The film therefore also highlights the years of tireless campaigning by the human rights group the Pat Finucane Centre (PFC) and the Dublin-based victims support organisation Justice for the Forgotten (JFF) to hold the Irish and British governments to account.

May

1: Caster Semenya lost a landmark case at the Court of Arbitration of Sport. The ruling upheld new rules created by the International Association of Athletics Federations designed to restrict the testosterone levels of female athletes.

15: The Supreme Court ruled that the discriminatory effects of the benefits cap on the children of lone parents are justified. In *R (DA and others) v SSWP*, Lord Wilson agreed with the government that it might encourage parents into work.

16: The government announced that the probation service will be renationalised by Spring 2021.

21: Former Supreme Court judge and right-wing commentator Jonathan Sumption QC delivered the 2019 Reith Lecture for the BBC, in which he criticised the human rights legislation and institutions as 'undemocratic' and 'adventurous'.

give rise to a new generation of social welfare lawyers able and willing to help people enforce their rights. Even the taxpayer would see savings, no longer obliged to fund costly but mostly pointless first-tier tribunal hearings, and increased demand on mental health services for those made ill by the stress of sanctions. This sort of sweeping but common-sense change would benefit us all far more than simply tinkering with arbitrary and punitive sanctioning powers which are long overdue for repeal.
Edmund Potts

We were lucky enough to have in attendance Anne Cadwallader, campaigner and author of the book *Lethal Allies* on which the film is based, for a Q&A session after the screening. Anne gave eloquent answers to the audience's questions, giving further context on the film and further details on the impressive and inspirational work that both PFC and JFF have carried out in Ireland and Britain.
Liam Welch

22: The first legal challenge against the police's use of facial recognition began in Cardiff High Court. The case is brought by Liberty and former Liberal Democrat councillor, Ed Bridges.

Young Legal Aid Lawyers

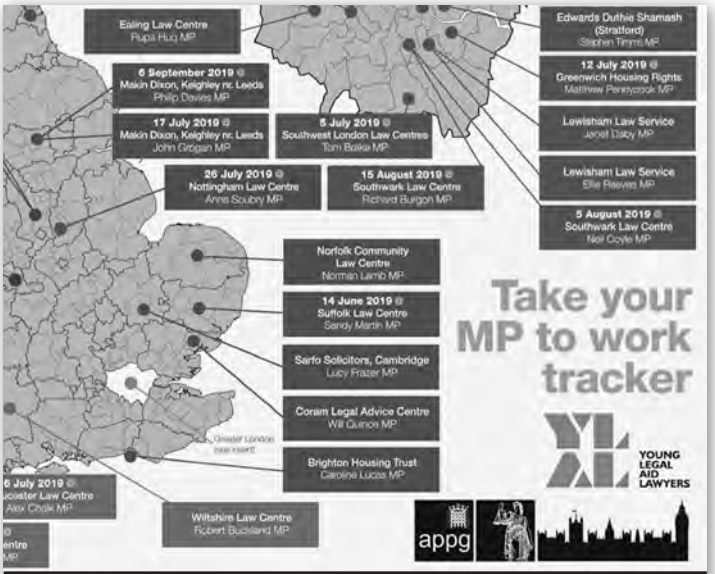
This regular column is written by YLAL members. To join or support their work, please visit their website **www.younglegalaidlawyers.org**

A fresh start and taking MPs to the #LegalAidFrontline

In May 2019 we took the helm of YLAL as a group of three co-chairs. YLAL has an impressive track record and we are excited to build on the work of our predecessors Oliver Carter, Katherine Barnes and Siobhan Taylor-Ward.

We have big plans to make YLAL an even more dynamic campaigning force. To achieve this, each of us will take charge of one of YLAL's focus areas:

- to campaign for a sustainable legal aid system which provides good-quality legal help to those who could not otherwise afford to pay for it;
- to promote the interests of new entrants and junior lawyers and to increase social mobility and diversity within the legal aid sector; and
- to provide a network for likeminded people beginning their careers in the legal aid sector.



Use the tracker to help take your MP to work.

Legal aid

Ollie is leading on our legal aid policy work. This includes engaging with the Ministry of Justice to ensure that its post-Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) review work is evidence-based and takes into account the interests of our members; working with the Legal Aid Practitioners Group to coordinate the All-Party Parliamentary Group (APPG) on Legal Aid; responding to consultations; and coordinating our campaign work on legal aid (more on that below).

Social mobility

Katie is leading on our social mobility work. Social mobility is a key element of YLAL's work: we are keen to continue the fight to ensure that individuals from a range of backgrounds are able to enter the legal profession. Swingeing legal aid cuts have restricted access to the profession, with reduced training contract and pupillage places making it more difficult to reach qualification. Even before this, it is difficult to get started in a career in law, with expectations that people undertake unpaid internships for lengthy periods of time, followed by long stints working as paralegals.

Many barriers to the profession were identified in our 2018 report *Social mobility in a time of austerity* [see: www.younglegalaidlawyers.org/socialmobilityreport2018]. These included the combination of high student debts with low salaries, the requirement to undertake unpaid work experience, and the lack of support given to junior lawyers working in highly pressured environments. We will be continuing our work to promote diversity in access to the profession and are looking forward to continuing to campaign for a more socially mobile legal sector.

YLAL as a support network

Lucie is leading on our membership support work. YLAL's members number approximately 3,500 and include students, paralegals, trainee solicitors, pupil barristers and qualified junior lawyers all across England and Wales. At a time when the future of legal aid looks bleak, it is heartening to be able to draw strength from the passion and motivation of our members to pursue careers in this area of law.

In return, we seek to provide our members with the support they need to do this, including providing networking opportunities through holding regular meetings at YLAL groups across the country, enabling our members to see opportunities within legal aid in one place on the jobs pages of our website, and supporting junior lawyers through our popular mentoring scheme, among other things. We have plans to develop these activities so as to better serve the interests of our members, in so doing >>>

Young Legal Aid Lawyers

>>> nurturing a vibrant and engaged network whose experience and expertise we can draw upon in advancing YLAL's broader objectives.

Our first big campaign: #TakeYourMPToWork

Our *#TakeYourMPToWork* is our first big legal aid campaign, which we are running in partnership with the APPG on Legal Aid. The government has committed to piloting early legal advice in one area of law (likely housing) following its review of the legal aid cuts introduced by LASPO. We are taking MPs to the legal aid frontline to show them why comprehensive early legal advice should be brought back into scope.

Social welfare problems are complex and interconnected. For example, housing problems often have their roots in debt or welfare benefits issues. Access to early legal advice often stops problems from escalating, which saves both stress and money.

More than 50 MPs have signed up to take part following Tweets and emails from our members and friends in the legal aid community. MPs from across the country and political spectrum are visiting legal aid firms and law centres in the coming weeks including Legal Aid Minister Paul Maynard, shadow Justice Secretary, Richard Burgon, Bob Blackman, Alex Chalk, Jess Phillips, Anna Soubry, Norman Lamb and Caroline Lucas.

We held a launch event in Parliament on 15th July (pictured below, with Richard Burgon MP speaking) and intend to hold a Westminster Hall Debate after the summer recess on the need for comprehensive early legal advice where MPs can draw upon their experiences visiting the legal aid frontline. From the launch event it is already clear that the campaign is already making a major difference. The Legal Aid Minister seemed genuinely affected by his visit to Fylde Coast Advice and Legal Centre: "As an MP, I hear from lots of people about the challenges they face, but having the opportunity to see it with my own eyes and really get to understand the experiences that people within the justice are having day to day is invaluable."

We are aiming for 100 MPs to visit the legal aid frontline by September. If you have not done so already, please Tweet your MP and ask them to take part in the *#TakeYourMPToWork* campaign (remembering to tag YLAL and the APPG on Legal Aid). If your MP responds, we will follow up with them and arrange their visit to a nearby law centre or legal advice surgery.

Katie McFadden, **Lucie Boase**, **Ollie Persey**, co-chairs of YLAL
www.younglegalaidlawyers.org
@YLALawyers

Picture: JRichard Gray

Pictures: Jess Hurd / reportdigital.co.uk

Police evicting Extinction Rebellion climate campaigners from Oxford Circus in April.

June

7: The High Court blocked an attempt to see Boris Johnson prosecuted for his role in the EU referendum campaign. Johnson had brought a judicial review of the magistrates' court's decision to issue a summons in respect of allegations of misconduct in public office, arguing that the prosecution was politically motivated.

'I am not going to the fucking White House!'
US footballer Megan Rapinoe

Over a thousand people were arrested and dozens of those appeared in courts in July.

Epic battle for legal aid by solicitors

On 12th June 2019 a homeless woman, Terryann Samuels, won her case in the Supreme Court. Birmingham Council had been wrong to treat her as 'intentionally homeless' because, having been evicted for rent arrears, her benefits had not been enough to pay for her family's basic living costs as well as her rent.

Her solicitors, Community Law Partnership, spent nearly three years battling with the Legal Aid Agency to fund her case. Even after the Supreme Court had granted permission to appeal, legal aid was only granted after they were threatened with judicial review. That did not just mean that justice was delayed in Ms Samuels' case, but the Court of Appeal's decision (which the Supreme Court overturned) was binding in every other 'intentional homelessness' case for more than three years.

Here Community Law Partnership describe their extraordinary fight with the Legal Aid Agency.

7th June 2013 – Ms Samuels made an application as homeless to Birmingham City Council ("BCC")
20th August 2013 – BCC determine that Ms Samuels is intentionally homeless; She requested a review of this decision through her representatives by letter of the same date.
11th December 2013 – BCC notified Ms Samuels of its decision on review and in particular that the Council had decided to uphold the intentional homeless decision. because she could, and should, have used some of her subsistence benefits to make up the shortfall between her HB and her contractual rent.
24th December 2013 – Ms Samuels issued an appeal in the County Court challenging the decision of 11th December 2013 that she was intentionally homeless.
10th June 2014 – The judgement in the appeal was handed down by the court. HHJ Worster dismissed the appeal.
27th June 2014 – Legal Aid was granted to Miss Samuels to issue an appeal of HHJ Worster's judgment to the Court of Appeal.
1st July 2014 – Ms Samuels issued an appeal in the Court of Appeal.
27th October 2015 – The Court of Appeal dismissed her appeal.
18th November 2015 – Permission to appeal to the Supreme Court refused by the Court of Appeal.
23rd November 2015 – Application to Legal Aid Agency (LAA) for amendment of Legal Aid certificate, supported by Counsel's advice, limited to applying to the Supreme Court for permission. The application stated, 'We are seeking a modest increase in the costs limitation at this stage as, if the Supreme Court refuses permission to appeal then that will be the end of the matter.'
24th November 2015 – Supreme Court of the UK confirm that the time for the application for permission to appeal is extended until 28 days after the final determination of the application for public funding.
24th December 2015 – Mr Bagri from the Exceptional and Complex cases team at the LAA confirms that the application for amendment has been refused as he assesses the prospects of success as 'poor'.
14th January 2016 – Appeal against this decision sent to the Legal Aid Agency supported by Counsel's advice. This is treated by the Legal Aid Agency as a **>>>**

51%

Number of young men aged from 15-21 incarcerated in the UK who identify as being from a BME background, despite representing only 14 per cent of the wider UK population.

12: Criminal barristers, who had voted to take industrial action, agreed to accept a new pay deal.

>>> review of the decision to 'show cause' the certificate.
3rd February 2016 – Further submissions in response to the "show cause" sent to the Legal Aid Agency.
9th March 2016 – Mr Bagri from the Legal Aid Agency informs us by email that the review of the show cause has been unsuccessful and the Legal Aid certificate has been discharged.
22nd March 2016 – Appeal to the Independent Funding Adjudicator (IFA) against the decision to discharge the certificate submitted. The IFA is an independent lawyer who considers appeals against refusals of legal aid. Letter includes the following: 'In our view, Counsel is clearly correct and Mr Bagri is incorrect. It is to be noted that in his final email dated 9th March 2016, Mr Bagri carries out no analysis whatsoever of the question as to whether an individual confined only to subsistence benefits income can properly be treated as having flexibility to divert over 11 per cent of that income to paying the shortfall in her rent. Mr Bagri has also completely failed to address the reasons point raised in Counsel's submissions. He does not address the points we made about the inadequacy of the Court of Appeal's analysis. In our view, this is a matter of national importance, and is exactly the sort of point which merits consideration by the Supreme Court. At this stage we seek only a limited certificate to enable us to apply for permission. If the Supreme Court agree with Mr Bagri's view then they will refuse permission. In our submission the costs of taking that small step manifestly justify the potential benefits to be obtained."
24th April 2016 – LAA confirms that the case will be put to the IFA.
27th June 2016 (following several chasing emails) – receive email from LAA saying that case needs to go to the Special Controls Review Panel (SCRP) not IFA. The SCRP is a panel of at least two independent lawyers which considers appeals against refusal of funding in certain types of case.
3rd October 2016 – Decision of SCRP received by email. Appeal refused, the Panel agreed with the reasoning of the Court of Appeal.
20th October 2016 – Judicial Review pre-action protocol letter sent to the Legal Aid Agency. '... the SCRP has failed to give any or any adequate reasons for its decision. The decision recites the Panel's conclusions but not its reasons. The Panel has failed entirely to give reasons for its rejection of the Claimant's substantial and detailed submissions in support of her appeal. By way of example, the decision letter states that *Farah .v. Hillingdon LBC* can be easily distinguished, but fails entirely to explain why, and the decision letter fails to address the effect of *Nzolameso .v. City of Westminster* on homelessness reasons, and the proper approach to the Code of Guidance…'
3rd November 2016 – Legal Aid Agency confirm that the matter will be considered afresh by a different SCRP.
6th February 2017 – Further submissions sent to Legal Aid Agency for consideration by the SCRP (as we still had no decision and the case of Carmichael had been decided since the last submissions we had made).
17th February 2017 – We were informed by the Legal Aid Agency that the new SCRP Panel would consider the appeal on 21st February 2017.
17th March 2017 – Second negative decision of the SCRP together with the advice that 'The SCRP decision is final; there is no further right of appeal.'
3rd April 2017 – JR Pre-action protocol letter sent to the Legal Aid Agency alleging failure to consider relevant matters, having regard to irrelevant considerations, and the breach of natural justice.
11th April 2017 – Legal Aid Agency confirm that they are quashing the second SCRP decision and putting it before a third Panel.
25th April 2017 – Email to Legal Aid Agency pointing out that the documents that they are proposing to send to the SCRP do not include all of the relevant documents, and confirmation from Legal Aid Agency that the matter will be considered on Wednesday 26th April 2017.
26th April 2017 – Legal Aid Agency confirm that SCRP meeting postponed due to illness.
31st May 2017 – Receive third negative SCRP decision. It runs to 35 paragraphs and is two to one against allowing the appeal. The one was a housing lawyer. Counsel James Stark and solicitor Mike McIlvaney discuss the case. Are we missing something? We feel that the case is very strong, of national importance, and one which the Supreme Court is likely to want to deal with. CLP partners agree. We collectively decide that we will seek permission from the Supreme Court without the benefit of legal aid.
20th October 2017 – Application for permission to appeal lodged.
19th February 2018 – Permission to appeal granted [cue fanfare] on all grounds. Surely we will get some Legal Aid now. We ask the Legal Aid Agency how we should proceed. There is no CCMS

Picture: Jess Hurd / reportdigital.co.uk

In the European elections a vibrant campaign stopped 'Tommy Robinson' from being

June

18: Emily Dugan won this year's Paul Foot award for Investigative and Campaigning Journalism for her coverage of the legal aid crisis.

'Time for us all to declare *I am Spartacus*.'
Fiona MacTaggart, ex-Labour MP and minister, on why she had voted for the Liberal Democrats in the European elections

71%
The increase in number of women prisoners who were homeless on arrival (between 2015 and 2018)

19: The Equality & Human Rights Commission released a report showing that people who had experienced unlawful discrimination were unable to access adequate legal aid.

elected MEP in the North West – he won just 2.2 percent of the vote.

wording code for appeals to the Supreme Court. The Legal Aid Agency advise us to make a new application using CCMS and to mark it urgent. In the meantime we have to get on with things in the Supreme Court. The Court graciously waives the payment of the initial fee unless and until Legal Aid be granted.

19th March 2018 – Legal Aid application submitted.

22nd March 2018 – Application for Legal Aid refused. Decision letter states, '… The decision of the Panel regarding prospects continues to be binding upon the Director. Even if the grant of permission does not negate the previous findings which include proportionality as well prospects of success which is based on the outcome at a final hearing.' [sic]. We have a right of appeal.

26th March 2018 – JR pre-action protocol letter sent to Legal Aid Agency.

6th April 2018 – Legal Aid Agency Central Legal Team writes: 'Our client accepts that a decision of the SCRP in relation to a previous application would not be binding.' The letter invites us to make a substantive application 'Unless you consider that the Director already has the full information available in order to make a substantive decision.' (We had previously made an emergency application as instructed by the LAA). We confirm that we consider that the Director already has all of the information that he needs.

9th April 2018 – Letter from Legal Aid Agency advising that we must make a substantive application because they have now been advised that they cannot 'convert' an emergency application into a substantive application.

9th April 2018 – Substantive application submitted via CCMS.

10th April 2018 to ***1st June 2018*** – Almost two months of CCMS-related shenanigans.

1st June 2018 – We receive a full Legal Aid certificate up to and including final hearing (hooray). Costs limitation is £5,000 which doesn't even cover the first disbursement we have to pay.

12th June 2018 – Application made to amend the Legal Aid certificate costs limitation, and for prior authority to instruct to Counsel.

21st June 2018 – LAA informs us, for the first time that they consider this to be the same case as that for which we had previously had Legal Aid which certificate was discharged, and we have to prepare a High Cost Case Plan.

31st August 2018 – Very High Cost Case Plan eventually signed after much wrangling with Exceptional and High Cost Cases team.

A lawyer weary of the law

On Thursday 27th June the Haldane Society joined the Institute of Employment Rights in organising 'An evening with William B. Gould' at Unite's offices in London.

Bill Gould, currently an emeritus professor at Stanford University, is a 'prolific scholar of labour and discrimination law'. He studied at the LSE under Otto Khan-Freund before embarking on a fascinating and high-profile career, which involved adjudicating in high-profile disputes as chair of the National Labor Relations Board and California Agricultural Labor Relations Board, receiving five honorary doctorates and writing more than 10 books.

John Hendy QC led the discussion. He pointed out that Bill had been in the UK in 1997-98 at the very start of the last Labour government, when he urged the new administration not to adopt a US-style recognition system. Needless to say the Blair government didn't listen and, John explained, its 1999 legislation not only failed to increase levels of collective agreement representation, but failed to even slow its decline.

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20: The Court of Appeal ruled that it was unlawful for the British government to licence the export of arms to Saudi Arabia for use in Yemen, overturning a decision of the High Court in a judicial review brought by Campaign Against the Arms Trade and a number of NGOs.

50%
of all law centres and not-for-profit legal advice services have closed over the last six years

26: Government figures revealed a sharp decline in funding for homelessness cases, with lawyers describing a 'culture of refusal' at the Legal Aid Agency.

26: The Met Police paid compensation of £729,000 to a number of activists who were protesting an EDL march in 2013. The police settled the claim without accepting liability regarding their detention and treatment.

'There were thousands of people cheering. Then I heard there were protests. I said, "Where are the protests? I don't see any protests".'
75,000 turned out for the 'Stop Trump' protest on the streets of London on 4th June

July

3: Billionaire aristocrats and press moguls the Barclay brothers lost a defamation and privacy claim in the French courts against an obscure playwright. They are now required to publish an announcement of their defeat in the French newspapers of record (we are happy to announce it here, too, free of charge).

'The law has replaced arms as a means for the far-right coup in Brazil – "law-fare"'
Former president of Brazil, Dilma Rousseff

Pictures: Jess Hurd / reportdigital.co.uk

6: Further evidence emerged that – despite the *Gureckis v SSHD* case – the Home Office planned to further collude with homelessness charities to gather information on homeless people, which could lead to their detention and deportation.

The Criminal Cases Review Commission – the watchdog for miscarriages of justice – referred just 13 cases for review last year, the second lowest number in its 22 year history.

8: The High Court dismissed a legal challenge to the use of child spies, ruling that underage 'covert human intelligence sources' to inform on county lines gangs and other organised crime is lawful.

'When you're dealing in trade, everything is on the table – so NHS or anything else, a lot more than that.'

>>> continued from page 11

Bill described the landscape of labour law in the US, starting with the Supreme Court's recent landmark judgment in *Janus v AFSCME*. The judgment, Bill explained, contains a 'newly-minted First Amendment right' for workers to refuse to pay dues where elements of the union's spending are inconsistent with their views. The court's decision defied over 40 years of precedent. It is also, Bill argued, very difficult to accept as a matter of principle: he highlighted that he and millions of others had paid taxes during the Bush era to fund illegal and unconscionable wars.

More cheerfully, Bill outlined the exciting spontaneous rise of public sector teacher strikes in 'red' states – states where there are not even collective bargaining mechanisms in place.

The audience also heard about the litigation running parallel to the UK's own 'gig economy' cases, such as claims against ridesharing companies Uber and Lyft. In California the companies are caught by a common law test establishing worker status, so they're heavily lobbying Democratic state legislators for an exemption, underwritten by their confidence in the current balance of the Supreme Court. That confidence isn't unfounded: the current Trump-appointed National Labour Relations Board has inventively reasoned that Uber and Lyft drivers are not subject to normal contracts of employment because, instead of being supervised by an employer, they're supervised by the customer (somehow that distinction destroys the employment relationship). And the Supreme Court has recently been grappling with 'un-bargained-for' arbitration, where standard contracts impose mandatory arbitration clauses in employment disputes. These provisions, sanctioned by the Supreme Court, effectively prohibit class actions in the courts, which Bill described as the "engines for reform" in the US.

A motif that recurred throughout the evening was Bill's cautiousness about the impact that the law can have. Bill noted the IER's strong commitment to sectoral bargaining but the law, he noted, had not created sectoral agreements. Instead, during the depression, new and radical unions like the UAW and Teamsters created national, multi-employer agreements – gains that were even more impressive. More recently, the rate of union membership has been declining precipitously while good laws were in place and while good NLRB board decisions were being handed down.

John Hendy explored whether Bill's scepticism could be moderated. Doesn't law reform define the boundaries for progress? Doesn't re-writing the law (by re-defining worker status, attack zero-hour contracts) the best way to combat capital's use of loopholes and distinctions?

Bill became a lawyer, he explained, because he grew up while *Brown v Board of Education* was going through the courts. He watched the law as it really helped people to achieve equality. More than 50 years later, and after an illustrious career, Bill told the room "I'm not as sure as I once was".

The 'asylum' Ex-Asilo Filangeri in Naples.

Inspiring location for Euro lawyers' summit

The 'asylum' Ex-Asilo Filangeri (www.exasilofilangieri.it/) in Naples has been a thriving open meeting space since 2012. With assembly and meeting rooms, a café, and wonderful views over Naples from the terrace, this a place: 'where a "shared management" public space dedicated to culture has been developed. A different use of a public good, no longer based on assignment to a particular private subject, but open to all those who work in the field of art, culture and entertainment, who, in a participatory and transparent manner, share a public assembly design and living spaces'.

This was the inspiring location for the annual general assembly, on 18th May 2019, of the European Lawyers for Democracy and Human Rights (https://eldh.eu/en/), of which Haldane was a founder member in 1993, and which now has members in 21 European countries.

Haldane members Wendy Pettifer, Michael Ellman and Bill Bowring represented Haldane. Representatives of ELDH associations in Bulgaria, Germany, Greece, Italy, Spain, Switzerland, Turkey (both our member organisations, ÇHD and ÖHP), and Ukraine also participated in the General Assembly, with apologies from comrades in Austria, the Basque Country, Belgium, France, Latvia, The Netherlands, and Russia.

Our Russian colleagues are the Lawyers for Workers Rights and the Centre for Social and Labour Rights, who work closely with the independent Russian Trade Union, and sent us a report on the current wave of working class struggles in Russia.

Bill Bowring was re-elected President of ELDH, with the

July

11: Stephen Yaxley-Lennon (AKA 'Tommy Robinson'), former leader of the far-right English Defence League, was re-sent to prison for contempt of court. He had appealed against his committal for endangering a trial in Leeds but was re-convicted and sentenced again to immediate custody, as a previous suspended sentence was also activated.

'Oh I do love my job sometimes.' Traffic warden who slapped a ticket on Tommy Robinson's campaign bus outside the Old Bailey

15: Lambeth Law Centre, one of the major providers of civil legal aid, immigration, welfare benefits and employment law services in south London, closed down. The law centre had been running since 1981. It was in an 'impossible financial situation' after many years of legal aid cuts.

15: The Ministry of Justice answered Parliamentary questions revealing that half of all law centres and not-for-profit advice centres have closed down since 2013.

German trade union lawyer Thomas Schmidt as General Secretary, and an Executive Committee representing all our associations.

We accepted new individual members: Jan Fermon (Belgium), Karl Fors (Sweden), Michaela Kroemer (Austria), and Hüsnü Yilmaz (Switzerland). The many activities of ELDH in 2018-2019 have been covered in detail in the previous two issues of *Socialist Lawyer.*

ELDH General Assembly. The next meeting of the ELDH Executive will almost certainly take place in October 2019, in Kyiv, Ukraine, hosted by the Ukrainian Democratic Lawyers and by the Ukrainian National Bar.

Activities in the next months will include:

- The Day of the Endangered Lawyer: on 24th January 2020 the focus will be on endangered lawyers in Pakistan. A preparatory meeting took place on 13th June in Brussels. ELDH was represented by Thomas Schmidt.
- Turkey: ELDH will try to organise a fact-finding mission which may include Bar Associations and the CCBE probably in September or October, and regular trial observations will continue (see the ELDH website).
- Migration/Refugees: ELDH will focus on the Criminalization of Refugees and Pro Refugee Activists.
- Catalonia: ELDH will continue trial observations, and organise a seminar on Democracy in Spain with our Spanish member organisation (FAI-RADE).
- Israel/Palestine: ELDH will follow up on the International Lawyers Campaign for the Investigation and Prosecution of Crimes Committed Against the Palestinian People with a conference/expert seminar in The Hague. Carlos Orjuela is taking the lead.
- Regional seminar: together with the ELDH Executive. Ukraine: Topics will include – minority rights in Ukraine, attacks on the Russian language, freedom of association, protection against illegal activities of the far right in Ukraine, Russian support for separatists in Donbas and the passport issue, persecution of the Crimean Tatars by Russian occupiers in Crimea.
- Gender issue: ELDH is setting up a committee to develop a gender strategy for ELDH.

Discussions at the ELDH General Assembly.

On Sunday 19th May 2019 the Second Conference of Lawyers of the Mediterranean, on 'Self-Determination, Human Rights and Migrants', co-organised by ELDH, the Italian Democratic Lawyers, and the Consiglio Nazionale Forense (National Bar Council) took place at the same venue.

It was opened by the Mayor of Naples, Liu gi de Magistris, who has declared Naples to be an Open Port for migrants, by Roberto Lamacchia, President of the Italian Democratic Lawyers, by Bill Bowring as President of ELDH, and by Francesco Caia of the Italian National Bar Council. There were speakers from countries all around the Mediterranean, as well as the UK (Wendy Pettifer, who spoke about migrant struggles in Calais). Inspiring speeches were given by Luca Casarini, Head of the Ionian Sea Mission, breaking the law by saving migrants from drowning, and by Laura Marmorale, Councillor for Immigration of the City of Naples.

Finally, our German comrades are at the centre of the fight for Palestinian rights, and for the right to engage in the BDS (Boycott, Divestment and Sanctions)

Wendy Pettifer (right) speaking at the the Second Conference of Lawyers of the Mediterranean, in Naples. Fabio Macrcelli was the chair.

"Inspiring speeches were made by Luca Casarini on breaking the law by saving migrants from drowning and by Naples councillor Laura Marmorale."

campaign. On Friday 17th May 2019 the German Bundestag passed a resolution describing the BDS campaign as anti-Semitic. The resolution was brought by all the centrist parties in the German Bundestag, including Angela Merkel's Christian Democratic Union (CDU) and its Bavarian sister party the Christian Social Union, the Social Democrats (SPD), the Free Democratic Party (FDP) and the Greens. In many cities of Germany public premises have been denied if speakers of organisations were members or supporters of the BDS campaign.

The Palestinian/Canadian journalist Khaled Barakat was even banned from speaking in Germany because he is allegedly close to the PFLP, which supports the BDS campaign, among others. In a letter to the German authorities ELDH together with the German Democratic Lawyers (VDJ) protested against this decision.

On 27th March 2019 the German VDJ advocate Ahmed Abed, a member of the ELDH Executive, won a case against the City of Oldenburg which had refused meeting space to BDS campaigners. But it is unclear how the Bundestag resolution will affect future cases.

16: The appointment of five new Court of Appeal judges was announced. Four of them are men, and all five attended top private schools and Oxbridge.

17: The Westminster Parliament passed measures to ensure that – if the Northern Ireland Assembly remains suspended – equal marriage rights would be extended to Northern Ireland by next year. The legislation would also improve Northern Ireland's abortion laws, which are, in some respects, harsher than even the recent restrictions in Alabama.

'We didn't get everything right in coalition, but we did a lot of good.'
New Liberal Democrat leader Jo Swinson (who voted for the bedroom tax, benefit cuts and restricting legal aid)

30: 70th anniversary of the Legal Aid and Advice Act 1949 gaining royal assent. Among other celebrations of the foundation of legal aid, the Justice Alliance produced a pamphlet highlighting 70 of the most important legal aid cases and the leader of the opposition hosted a reception in his Parliamentary office.

Monsters at every turn

Lucy Chapman interviews **Jim Matthews** about fighting Daesh and the criminal charges that followed.

In 2014 Jim Matthews left behind his teaching job to join the People's Protection Units (YPG) in Rojava. The YPG are Kurdish rebel resistance forces fighting against ISIS or, as Matthews has put it, a 'feminist revolution'. A former soldier, Matthews' skills were in high demand at the frontline, where many of the Kurds and international volunteers he joined had no military experience. Their struggle was against a group widely perceived to be an invincible enemy. The situation in 2019 (the Caliphate has fallen and ISIS-controlled territories in Syria are, for the most part, liberated) is owed in large part to the YPG, who fought alongside and received funding from coalition forces (including the UK).

After returning to the UK Matthews was arrested, which began a three-year ordeal that turned his life upside-down. Although the charges were eventually dropped, life is still far from normal for Matthews, and his case shows the uncertainty in this area of law and its application. The fates of others visiting war zones, including other fighters, reporters and providers of humanitarian relief, hang in the balance. The uncertaintly seems to allow the state to choose prosecutions at-will, which allows for politically motivated, discriminatory decision making. Matthews has written an account, *Fighting Monsters* (Mirror Books, February 2019, see our review on page 46), and here he speaks to *Socialist Lawyer* about his experiences. **>>>**

Right: Fighting Monsters' original artwork by Jim Matthews. His request for this to be used as the cover of his book was refused by the publisher in favour of a more typical war-story-like type image.

>>> How did you first become involved with the British Army?

I joined up at 19, after dropping out of college and doing a string of menial jobs and a few months of travelling. I think the possibility of travel was an incentive, but mostly I just didn't have much clear direction in my life at that time. It's a common story. It was a different time to be in the army – the time of peacekeeping forces, Bosnia and so on. The army did a lot for me but after a few years I found the life restrictive and I wanted an education. So I left and went to university.

You took part in other forms of human rights activism internationally in the past, where and what did this involve?

As a student I got involved in various kinds of political activism. I'd joined Amnesty in my last year of service and was becoming more interested in world issues generally. A big moment for me was the Zapatista caravan from Chiapas to Mexico City in 2001. I read an article in a newspaper about this revolutionary guerrilla movement and wanted to know more. I drew out all my cash and flew there, with £100 and a printout of the caravan route with dates. After a bit of trailing around I found the travelling camp in the middle of the night in some small town. It was mindblowing, meeting people from Indymedia, the Italian White Overalls, freelance journalists who'd been in Bosnia while I was there with the army, indigenous activists – all kinds of people. I came back with my head spinning and pockets full of leaflets, journals, phone numbers, emails, websites scribbled on bits of paper. I felt I'd found something I'd been looking for.

Later that year I went to Genoa for the G8 – the largest mass anti-globalisation summit protest, dwarfing those of Seattle and Prague. The street violence was unprecedented – thousands of cops and protesters battling all over the city, barricades in the roads, things on fire and a protestor shot dead. Beatings and torture inside police stations. Though I had misgivings about some of the things our side had got up to, I had no doubt about who my side now was. For the next few years I got involved with all kinds of political actions. It seemed there was never a moment when I didn't have at least one action to plan, a meeting to go to, a benefit gig, a witness appeal or court case.

Later I went to Palestine, to get involved with the international solidarity movement. Whole towns were under lockdown in the West Bank and there had been a ferocious

"I once mentioned in an interview that I'd been deeply shocked by a photo of a grinning Daesh fighter holding up a woman's severed head. It's been said (and written) that that was the reason I decided to go and fight – which is a bit of a misinterpretation. But it played a part."

Photo of Jim cleaning a weapon in Kolbani .

battle in Jenin. I travelled to the West Bank and Gaza three times – blocking tanks in the streets, riding on Red Crescent ambulances ('human shield' volunteering), monitoring checkpoints, negotiating, reporting. I also worked in Gaza for a local refugee charity. I made trips to Iraq (2003/4) and Lebanon (2007) on a broad anti-war/anti-occupation basis.

Before Rojava I was a bit burnt out with activism and activists, and had decided I was finished with it all.

***Fighting Monsters* explains why you fought with the YPG – but was there particular a catalyst moment? Why did you return to Rojava a second time?**

I once mentioned in an interview that I'd been deeply shocked by a photo of a grinning Daesh fighter holding up a woman's severed head. It's been said (and written) that that was the reason I decided to go and fight – which is a bit of a misinterpretation. But it played a part. The only other moment I can think of was discovering in a press article that the Kurdish fighters were taking international volunteers. The particular volunteers written about were later featured in an exposé, which claimed that they'd never fought, but had made money from media interests. But by that time my own talks with the YPG were well underway.

After six months in northern Syria and Iraq, and a few weeks in France in the summer of 2015, I returned to Rojava. I'd been pretty set on calling it a day at the six-month point. But in France I got news that several comrades had been killed, and the only thing I could think of was getting back there. It's not unusual for internationals to return to Rojava having been there once, perhaps for different reasons. It gets under your skin.

Some on the left reacted negatively to your fight against ISIS. What would you say to those people?

I can understand, but I'd say the situation needs examining more closely. If Daesh hadn't been forced out they would still be there, and the massacres and violations would continue.

How were you treated by the UK authorities?

I was detained immediately upon arrival under section 5 of the Terrorism Act, and interrogated by Special Branch. After several hours the decision was made to arrest. I was driven to London and interrogated further. Police seized my passport, computer, phone, clothes, basically everything I had. Finally, they turfed me out into the winter night in a prison **>>>**

Photo of female resistance fighter 'Heval Viyan', Jim's friend, destroying an ISIS mural.

"How could I have been a terrorist when I was fighting against a proscribed terrorist organisation but also how I could have been a terrorist when theYPG (the Kurdish fighting group I joined) were not."

>>> tracksuit and plimsolls. My lawyer had to argue to get me some socks.

I was bailed but not yet charged, so I couldn't get legal aid. I ended up paying the lawyer nearly £2,500 for representation during the subsequent two years of police investigation.

Two years after my arrest, during which time my bail conditions were considerably relaxed and my passport returned, police arrived at my door as I was on my way to work and notified me I would be charged. The charge was that I 'attended a place or places in Iraq or Syria where instruction or training was provided for purposes connected with the commission or preparation of acts of terrorism'. Note that the charge doesn't say that I received training – just that I attended said place(s). My passport was seized again and other restrictions re-imposed.

Shortly after I arrived at work I found the police had publicly announced the charging decision on Twitter. The next day it was in several newspapers, and I was out of a job.

Next, Halifax Bank froze my account without alerting me or explaining why. I was claiming benefits and was suddenly, and for the next six months, unable to access that money. It was paid in but I couldn't get it. Attempts to find other ways to get benefits paid proved fruitless. My lawyers contacted the bank and my local MP, arguing on numerous legal and humanitarian grounds; but to no avail.

My lawyers discovered I'd been listed on Worldcheck: 'a database of Politically Exposed Persons and heightened risk individuals and organisations, used around the world to help to identify and manage financial, regulatory and reputational risk'. Recently Worldcheck have admitted wrongfully listing the Palestinian Solidarity Campaign (among others) on their database.

When my charges were dropped after six months (without explanation from either the police, CPS or Attorney General), we got the Worldcheck listing removed. My bank account was quietly reinstated. None of this has ever been explained.

What was your impression of the criminal justice system?

I think there are real problems with this particular area of law. The law needs to be clear, consistently applied and predictable – so people know if they're breaking it, or about to. Currently, different regional police forces have a certain local autonomy in their application of terrorism legislation. And that's just part of the mess.

When the Terrorism Act was first brought in, nearly two decades earlier, it was argued in Parliament that the wording was far too general. My own case could hardly have been a better demonstration of that: Kurds travelling to Iraq to fight Saddam would technically be terrorists. The then-Home Secretary, Jack Straw, retorted that that the idea of the law being used in this way was the product of a 'fevered imagination'.

Had my case gone to trial, the prosecution would have had to explain not only how I could have been a terrorist when I was fighting against a proscribed terrorist organisation – alongside an international coalition which included the UK – but also, how I could have been a terrorist when the YPG (the Kurdish fighting group I joined) were not.

When charges were dropped the court said it was up to the Attorney General to explain all of this to Parliament. The Attorney General responded that it was for the CPS to explain. So far no one has felt sufficiently obliged.

Perhaps this murky 'mess and mystery' (to quote my own barrister, Joel Bennathen QC) is because there are too few British YPG volunteers to merit a customised approach. However, perhaps certain parties find it beneficial to have a vague, wide-ranging and specialised area of law which can be arbitrarily applied with no accountability. It seems fundamentally anti-democratic and dangerous, to others as well as me.

There have been suggestions of a political dimension to my case (and similar cases).

The Turkish government, which hates the Kurds more than it does Daesh, is a NATO ally and trading partner of the UK. Turkey buys hundreds of millions of pounds of British weapons. People are asking whether the Turkish government may have put pressure on the UK's, to crack down on support for Kurdish resistance in the UK.

My lawyers requested disclosure from the prosecution regarding discussions between the British and Turkish governments about British volunteers fighting for the Kurds. They also requested disclosure of discussions held within government over whether the YPG should be proscribed. We never got that material. Notifying us of their decision to drop the charges, the prosecution wrote (unprompted): 'This decision is not in response to the applications before the court for disclosure or to stay the proceedings'.

An article on OpenDemocracy suggests that my particular charge was a case of 'low-hanging fruit. The UK could **>>>**

“The questions were so unfocussed and rambling (not to mention personal and invasive), and the Special Branch officers so incompetent, it seems they were just filling in time while data was downloaded from my laptop and phone.”

>>> cave in under pressure in a case against a British veteran that is sure to lose’. Such suspicions are hard to allay in the absence of any proper explanation.

How did you feel about the media attention around your case? It was the first of its kind, and it became a cause celèbre of the right-wing press certain far right groups.

The right-wing ‘Football Lads Alliance’ wrote to my lawyer and to me personally, stating their intention to hold a demonstration for me outside the court and mobilise several thousand people. We responded clearly and directly that we wanted no association with them or their ideas. There were a few disgruntled comments, I’m told, but then they moved on.

On the advice of lawyers, and also because I value my privacy, I eschewed all media approaches while my legal fight was ongoing. However, I’d always intended to write a book about my time in Rojava, and having published it I’m more open to publicity. No one’s going to read it if no one knows about it.

How have you been treated by the police since the case was dropped?

I thought the matter was pretty much ended; and in fact, during the protracted legal proceedings, my lawyers and I had the strong sense that this was not being pushed by the police. Since then, however, I have been detained coming back from holiday in France, and interrogated at length (photographed, fingerprinted again, etc). One of the Special Branch officers was the same one who’d arrested me on my return, so must have been aware of the two-and-a-half years of investigation and failed charges. The questions were so unfocussed and rambling (not to mention personal and invasive), and the officers so incompetent in their continual misuse of words, their misunderstandings and mis-transcriptions of my answers, that it seems likely they were just filling in time while the data was downloaded from my laptop and phone. Quoting the author Steve Aylett, it was ‘the worst interrogation I’ve ever been in’. Unfortunately, it’s a *de facto* offence to refuse to answer a question and any show of frustration just convinces them that they’re onto something.

I sent the police, though my lawyers, a letter notifying them that we intend to take action and demanding they do not share unlawfully obtained material with any third party. I expect it will be disregarded.

Group photo of the Hevals – Jim is far left on the back row.

Three weeks ago two plain clothes officers turned up at my sister's place and questioned her about my whereabouts and movements in an unnecessarily aggressive (and intimidatingly sarcastic) manner. She has an anxiety disorder and two children. So besides being unwarranted (I'm a free citizen, not wanted, or on bail) there's now a real question of harassment.

As with the CPS and the Attorney General, the police have refused to offer any explanation for their decisions and conduct. My own impression is that those working in this area can basically do whatever they like.

Why do you dislike the term 'hero', and try to actively distance yourself from it?

I find the word overused, unreflective and particularly trite. There should be an accounting for moral complexity in any mature understanding of the situation and what we did there. If we have to use the word hero then let's save it for those who gave their lives. Among the UK nationals these include Kosta Scurfield, Luke Rutter, Dean Evans, Jac Holmes and Anna Campbell. Of the others (Kurds and internationals) there are far too many to name.

Do you have any regrets?

Yes, but mostly more banal than you might expect. In Rojava there were numerous interpersonal situations, with people who are now no longer around, where I let the frustration of the environment get the better of me, and that's what bothers me the most. Unfortunately there's nothing to be done about that. Most of those moments I think arose during static times in units that were held back from the fight while others went forward. After losing a couple of comrades I was not just impatient but desperate to get into battle. It was a much longer game than that, and it took me a longer time to realise it.

I don't regret going and I don't regret fighting. And I never will, whatever the authorities do. I'm convinced it was right.

What next?

I'd like to write another book, but I guess it all depends on how this one fares. Currently I'm back to teaching in London and trying to live as normal a life as possible. Frankly I've got a dread sense that one day the police will just turn up at my workplace and mess it all up for me.

Closure of Shoreditch County Court

The huge iron door locks behind the closed court.
Hiding empty rooms uneasy at the guilty memory of rough justice.
No more robed clerks hustling over the important day's list.
Only empty sweat-stained leather benches bearing witness to anxious bodies
Waiting for Judgement about their lives from beneath a horse hair wig
Onto the streets or into the cell: loss of liberty and dignity either way.
Papers spill out from bundles of documents tied with ribbon
Pink for the Claimants, green the Defendants
Nobody cares now, questionnaires filled in online, no written record to prove the truth.
Too hard for the illiterate, the migrant, the mad, the bad, the terrified
Who should've taken the tablets, stayed at home, learnt to read.
Litigants in person will fail to understand procedures, places, cases
Battles between the dispossessed and their deniers rage elsewhere
As clerk ghosts float on tranquil motes of dust in Shoreditch County Court.

Wendy Pettifer (2006)

1UW; Harrow Magistrates Court, HA1 2JY; Haywards Heath County Court, RH16 1YZ; Hemel Hempstead Magistrates Court, HP1 1HF; Hitchin County Court, SG5 2JR; Honiton Magistrates Court, EX14 1LZ; Houghton-Le-Spring Magistrates Court, DH4 5BL; Huntingdon County Court, PE29 3BD; Ilford County Court, IG1 1TP; Ilkeston Magistrates Court, DE7 5HZ; Keighley County Court, BD21 3SH; Kidderminster County Court, DY10 1QT; Kingston-upon-Thames Magistrates Court, KT1 1EU; Knowsley Magistrates Court, L36 9XY; Lewes Magistrates Court, BN7 2PG; Liskeard Magistrates Court, PL14 6RF; Llandovery Magistrates Court, SA20 0AB; Llangefni Magistrates Court, LL77 7TW; Llwynypia Magistrates Court, CF40 2ER; Lowestoft County Court (FPC), NR32 1HJ; Ludlow County Court, SY8 1AQ; Ludlow Magistrates Court, SY8 1AZ; Lyndhurst Magistrates Court, SO43 7AY; Market Drayton Magistrates Court, SY2 5NX; Market Harborough Magistrates Court, LE16 7NH; Melton Mowbray County Court, LE13 1NH; Melton Mowbray Magistrates Court, LE13 1NH; Mid-Sussex (Haywards Heath) Mag Court, RH16 4BA; Newark County Court, NG24 1LD; Newark Magistrates Court (FPC), NG24 1LD; Newbury County Court, RG14 5QT; Northwich County Court, CW9 5ES; Northwich Magistrates Court (FPC) (same as County), CW9 5ES; Oswestry County Court, SY11 1PZ; Oswestry Magistrates Court, SY11 1RP; Penrith County Court (same building as Mags), CA11 7QL; Penrith Magistrates Court (same building as County), CA11 7QL; Penzance County Court, TR18 4JH; Penzance Magistrates Court, TR182QD; Pontypool County Court, NP4 6NZ; Poole County Court, BH15 2NS; Pwllheli Magistrates Court, LL53 5ED; Rawtenstall County Court, BB4 7RT; Rawtenstall Magistrates Court, BB4 6RD; Redditch County Court, B97 4AB; Retford Magistrates Court, DN22 6BL; Rochdale Magistrates Court (FPC), OL16 1AR; Rugby County Court, CV21 2RN; Rugby Magistrates Court, CV21 2DH; Runcorn County Court, WA7 2HA; Rutland Magistrates Court, LE15 6DF; Salford County Court, M5 4RR; Salford Magistrates Court (FPC), M3 6DJ; Shrewsbury County Court, SY1 1NA; Sittingbourne Magistrates Court, ME10 1DR; Skegness County Court, PE25 2TF; Southport (North Sefton) Magistrates Court, PR9 0LP; Southport County Court, PR9 0PU; Stourbridge County Court, DY8 1QL; Stratford Upon Avon County Court, CV37 6PA; Sudbury Magistrates Court, CO10 1QN; Sutton Coldfield Magistrates Court, B74 2NS; Sutton Magistrates Court, SM6 0JA; Swaffham Magistrates Court, PE37 7NH; Tamworth County Court, B79 7AL; Tamworth Magistrates Court, B79 7AR; Thetford Magistrates Court, IP24 3AQ; Totnes Magistrates Court, TQ9 5JY; Towcester Magistrates Court, NN12 6DE; Tynedale (Hexham) Magistrates Court (FPC), NE46 3NB; Wellingborough County Court, NN8 4NF; West Bromwich Magistrates Court, B70 8ED; Whitehaven County Court, CA28 7NU; Whitehaven Magistrates Court, CA28 7PA; Wimborne Magistrates Court, BH21 1JW; Wisbech Magistrates Court, PE13 3DE; Witney Magistrates Court, OX28 6JH; Woking Magistrates Court, GU22 7YL; Woolwich Magistrates Court, SE18 6QY; Worksop County Court, S80 1LN

■ **Courts and tribunals closed during year 2012-2013 financial year:**
Burton Upon Trent County Court, DE14 1BP; Haringey Magistrates Court, N6 4HS; Pontefract County Court, WF8 1RJ; Pontefract Magistrates Court (FPC), WF8 1BW; Stoke on Trent Magistrates Court, ST4 3BX; Selby Magistrates Court, YO8 4QB; Trowbridge County Court, BA14 8DB

■ **Courts and tribunals closed during 2013-2014 financial year:**
Abergavenny Magistrates' Court, NP7 5DL; Andover Magistrates Court, SP10 2AB; Denbigh Magistrates Court, LL16 3UU; North Liverpool Community Justice Centre, L5 2QD; Tower Bridge Magistrates Court, SE1 2JY

■ **Courts and tribunals closed during 2014-15 financial year:**
Alton Magistrates' Court, GU34 1EA; Bracknell Magistrates' Court, RG12 1AF; Bury St Edmunds Tribunal, IP33 2AQ; Knutsford Crown Court, WA16 0PB; Neath Magistrates' Court, SA11 1RF; Newcastle Tribunal - Quayside House, NE1 3DX.; Spalding Magistrates' Court, PE11 1BE

■ **Courts and tribunals closed during 2015-2016 financial year:**
Accrington County Court, BB5 2BH; Accrington Magistrates' Court, BB5 2BH; Aldershot & Farnham County Court, GU11 1SS; Arcade Chambers - Aldershot Tribunal, GU11 1DZ; Basildon Acorn House - Basildon Tribunal, SS14 1AH; Cambridge RPTS Tribunal, CB22 5LD; Cambridge Tribunal - Eastbrook House, CB2 2DJ; Chesterfield County Court, S41 7TW; Chesterfield St Marys Court - Chesterfield Tribunal, S41 7TD; 3BN; Oldham Magistrates' Court, OL1 1QE; Ormskirk Magistrates' Court, L39 2BJ; Pocock Street Tribunals Hearing Centre, SE1 0BW; Pontypridd Magistrates' Court, CF37 1SD; Prestatyn Magistrates' Court, LL19 7TE; Redhill Magistrates' & Reigate County Court, RH1 6DH; Rhyl County Court, LL18 3LA; Rotherham Magistrates' & County Court, S60 1YW; Runcorn (Halton) Magistrates' Court, WA7 2HA; Sandwell Magistrates' Court, B69 4JN; Scunthorpe Magistrates' & County Court, DN15 6LJ; Skegness Magistrates' Court, PE25 1BH; Southampton Barrack Block, SO15 2SH; St Helens Magistrates' Court, WA10 1SZ; Stroud Magistrates' Court, GL5 1ET; Swansea Crown Court (Guildhall), SA1 4PE; Tameside Magistrates' & County Court (County Part Only), OL6 7TP; Taunton Blackdown House - Taunton Tribunal, TA1 2PX; Tottenham Magistrates' Court, N17 6RT; Trafford Magistrates' Court & Altrincham County Court, M33 7NR; Tunbridge Wells County Court, TN1 1DP; Wakefield & Pontefract Magistrates' Court, WF1 2TW; Warrington Combined Court (County Part Only), WA1 1UR; Warrington Magistrates' Court, WA1 1LQ; West Berkshire Magistrates' Court (Newbury), RG17 7TQ; Weymouth & Dorchester Combined Court Offices (Westwey House), DT4 8TE; Wrexham Rhyd Broughton (Tribunal), LL13 7YP; Yate Magistrates' Court (North Avon), BS37 4PY; Yeovil County Court, BA20 2QD

■ **And here's more, there will be others...:**
Bow County Court; Chichester Combined Court Centre; Eastbourne County Court; Holyhead Magistrates' Court; Lambeth County Court.

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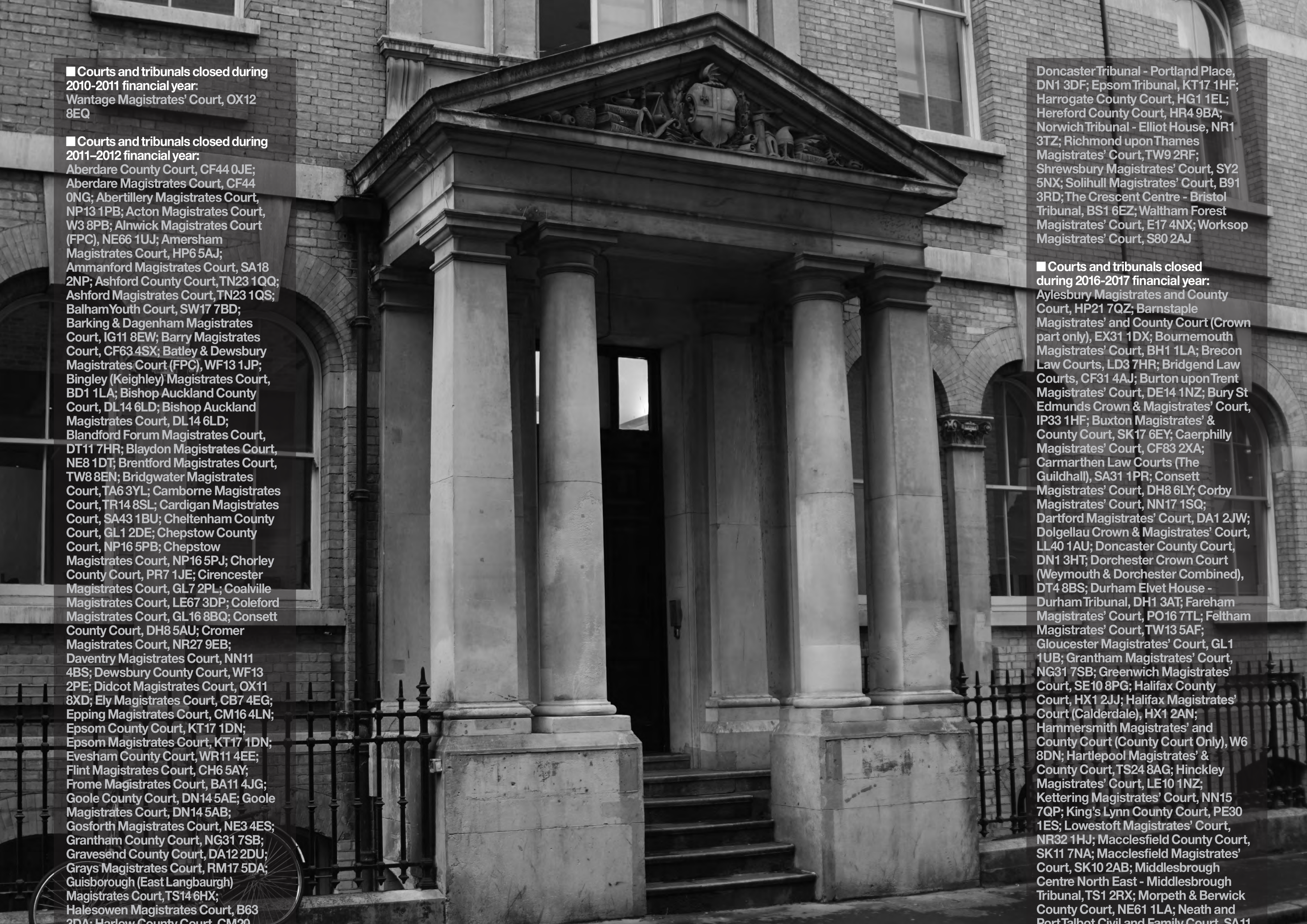


■ **Courts and tribunals closed during 2010-2011 financial year:**
Wantage Magistrates' Court, OX12 8EQ

■ **Courts and tribunals closed during 2011–2012 financial year:**
Aberdare County Court, CF44 0JE; Aberdare Magistrates Court, CF44 0NG; Abertillery Magistrates Court, NP13 1PB; Acton Magistrates Court, W3 8PB; Alnwick Magistrates Court (FPC), NE66 1UJ; Amersham Magistrates Court, HP6 5AJ; Ammanford Magistrates Court, SA18 2NP; Ashford County Court, TN23 1QQ; Ashford Magistrates Court, TN23 1QS; Balham Youth Court, SW17 7BD; Barking & Dagenham Magistrates Court, IG11 8EW; Barry Magistrates Court, CF63 4SX; Batley & Dewsbury Magistrates Court (FPC), WF13 1JP; Bingley (Keighley) Magistrates Court, BD1 1LA; Bishop Auckland County Court, DL14 6LD; Bishop Auckland Magistrates Court, DL14 6LD; Blandford Forum Magistrates Court, DT11 7HR; Blaydon Magistrates Court, NE8 1DT; Brentford Magistrates Court, TW8 8EN; Bridgwater Magistrates Court, TA6 3YL; Camborne Magistrates Court, TR14 8SL; Cardigan Magistrates Court, SA43 1BU; Cheltenham County Court, GL1 2DE; Chepstow County Court, NP16 5PB; Chepstow Magistrates Court, NP16 5PJ; Chorley County Court, PR7 1JE; Cirencester Magistrates Court, GL7 2PL; Coalville Magistrates Court, LE67 3DP; Coleford Magistrates Court, GL16 8BQ; Consett County Court, DH8 5AU; Cromer Magistrates Court, NR27 9EB; Daventry Magistrates Court, NN11 4BS; Dewsbury County Court, WF13 2PE; Didcot Magistrates Court, OX11 8XD; Ely Magistrates Court, CB7 4EG; Epping Magistrates Court, CM16 4LN; Epsom County Court, KT17 1DN; Epsom Magistrates Court, KT17 1DN; Evesham County Court, WR11 4EE; Flint Magistrates Court, CH6 5AY; Frome Magistrates Court, BA11 4JG; Goole County Court, DN14 5AE; Goole Magistrates Court, DN14 5AB; Gosforth Magistrates Court, NE3 4ES; Grantham County Court, NG31 7SB; Gravesend County Court, DA12 2DU; Grays Magistrates Court, RM17 5DA; Guisborough (East Langbaurgh) Magistrates Court, TS14 6HX; Halesowen Magistrates Court, B63 3DA; Harlow County Court, CM20

Doncaster Tribunal - Portland Place, DN1 3DF; Epsom Tribunal, KT17 1HF; Harrogate County Court, HG1 1EL; Hereford County Court, HR4 9BA; Norwich Tribunal - Elliot House, NR1 3TZ; Richmond upon Thames Magistrates' Court, TW9 2RF; Shrewsbury Magistrates' Court, SY2 5NX; Solihull Magistrates' Court, B91 3RD; The Crescent Centre - Bristol Tribunal, BS1 6EZ; Waltham Forest Magistrates' Court, E17 4NX; Worksop Magistrates' Court, S80 2AJ

■ **Courts and tribunals closed during 2016-2017 financial year:**
Aylesbury Magistrates and County Court, HP21 7QZ; Barnstaple Magistrates' and County Court (Crown part only), EX31 1DX; Bournemouth Magistrates' Court, BH1 1LA; Brecon Law Courts, LD3 7HR; Bridgend Law Courts, CF31 4AJ; Burton upon Trent Magistrates' Court, DE14 1NZ; Bury St Edmunds Crown & Magistrates' Court, IP33 1HF; Buxton Magistrates' & County Court, SK17 6EY; Caerphilly Magistrates' Court, CF83 2XA; Carmarthen Law Courts (The Guildhall), SA31 1PR; Consett Magistrates' Court, DH8 6LY; Corby Magistrates' Court, NN17 1SQ; Dartford Magistrates' Court, DA1 2JW; Dolgellau Crown & Magistrates' Court, LL40 1AU; Doncaster County Court, DN1 3HT; Dorchester Crown Court (Weymouth & Dorchester Combined), DT4 8BS; Durham Elvet House - Durham Tribunal, DH1 3AT; Fareham Magistrates' Court, PO16 7TL; Feltham Magistrates' Court, TW13 5AF; Gloucester Magistrates' Court, GL1 1UB; Grantham Magistrates' Court, NG31 7SB; Greenwich Magistrates' Court, SE10 8PG; Halifax County Court, HX1 2JJ; Halifax Magistrates' Court (Calderdale), HX1 2AN; Hammersmith Magistrates' and County Court (County Court Only), W6 8DN; Hartlepool Magistrates' & County Court, TS24 8AG; Hinckley Magistrates' Court, LE10 1NZ; Kettering Magistrates' Court, NN15 7QP; King's Lynn County Court, PE30 1ES; Lowestoft Magistrates' Court, NR32 1HJ; Macclesfield County Court, SK11 7NA; Macclesfield Magistrates' Court, SK10 2AB; Middlesbrough Centre North East - Middlesbrough Tribunal, TS1 2RX; Morpeth & Berwick County Court, NE61 1LA; Neath and Port Talbot Civil and Family Court, SA11

ONE BIG UNION, INSIDE AND OUT

The riots and rooftop protests reported in the news are just a fraction of the daily resistance going on in prisons across the UK. People inside prison are constantly finding ways to challenge the abuses they experience and to challenge the notion that they deserve to be treated as less than human because the state has defined them as 'criminals'. The Incarcerated Workers Organising Committee (IWOC) is working to support this resistance and build solidarity between people fighting for social justice on both sides of the prison walls.

The roots of IWOC

In 2014 members of a grassroots prisoner support group called the Free Alabama Movement (FAM) approached the Industrial Workers of the World (IWW) union for support in organising prison strikes. FAM had been working with people inside prisons to organise work stoppages and prison 'shutdowns' in protest at the exploitation of prisoners' labour by private companies and US states.

Founded in 1905, the IWW takes a different approach to many other unions. In particular, it understands the 'worker' as being any member of society outside of the 'employing class'. It has been at the forefront of organising groups of workers typically abandoned by traditional unions, including migrant workers and precarious workers. Understanding the prison-industrial-complex as a key part of the apparatus used to control and exploit the working class, IWW set up IWOC and began working with FAM and other groups such as Jailhouse Lawyers Speak to organise prison strikes across the US.

The first national prison strikes began on 9th September 2016 and reportedly involved 24,000 prisoners across 40 to 50 prisons (though the data on this is patchy and difficult to confirm). A central demand was the repeal of a clause in the 13th Amendment to the US Constitution, allowing those convicted of a crime to be forced to work with no pay. Strikers called this 'legalised slavery' and drew attention to the incentive this creates to expand the criminal justice system to enable governments and corporations to access cheap or free labour. Alongside this issue, however, were also a broad list of other demands, varying from prison to prison. These included the reform of humane living conditions, access

Organising Committee

to healthcare and education and clear routes to re-entry into the community.

The impact of the strikes was mixed. Solidarity and organising capacity within prisons was hugely bolstered and many prisoners spoke of the importance of support from outside the prison, particularly in drawing media attention and providing legal assistance. At the same time, many prisoners criticised the focus on prison labour as too narrow and not applicable to the large numbers of prisoners unable to work or preoccupied with other issues.

But people inside and outside prisons kept organising and a new wave of strikes took place in 2018. While these actions did not seem to engage greater numbers of prisoners, organisers succeeded in generating much more media coverage. A list of 10 demands was issued, broadening the focus from prison labour to a holistic rights-based framework, including sentencing reform, ending the targeting of people of colour by the justice system and extending voting rights to prisoners and others with convictions. This strategy succeeded in bringing an analysis of the prison-industrial-complex as organised state violence into the national consciousness.

From the US to the UK

IWOC in the UK (or, more accurately, in Wales, Ireland, Scotland and England) was launched in 2016 by a small group of ex-prisoners and IWW members. This was the beginning of a crucial time in resistance to the prison system in the UK, with the government's announcement that nine new prisons were to be built by 2020. Inspired by the 2016 US prison strikes, the group aimed to support the resistance that was already taking place in UK prisons and to build relationships between organisers inside and outside prisons.

Letter writing has been an invaluable resource for this. IWOC members on the outside become pen pals with prisoners, regularly checking in, learning about their lives inside and finding out what challenges they face. Wherever possible, the group will then use whatever resources it can on the outside to support their pen pals. This might be through raising concerns with Ministry of Justice officials, raising money for mental health assessments, seeking legal support or holding demonstrations in support of prisoner demands. With the support of pen pals, IWOC has used individual cases to draw attention to the systemic abuses of the prison system, often focusing on the kinds of prisoners that reform organisations routinely ignore such as long-term prisoners and those convicted of violent crimes.

Reckoning with the system

While IWOC in the UK has been successful in supporting a number of prisoners since its inception, we have faced significant challenges >>>

"One of our biggest challenges is censorship. Letters going in and out of numbers are randomly barred and the rules around other forms of comm experiencing censorship and don't currently have the knowledge or capa

>>> as a small grassroots group up against a cruel and ruthless system.

One of our biggest challenges is censorship. Letters going in and out of prisons regularly go missing, phone numbers are randomly barred and the rules around other forms of communication are draconian. Enforcement of security procedures and the definition of 'risk' is a constant gamble, often dependent on the national policy, local procedures and staff temperament on the day. Recently our most high-profile member, Kevan Thakrar, was barred from phoning us from prison without explanation. While this won't stop us from campaigning for and staying in touch with Kevan, these bureaucratic hurdles significantly slow us down and divert energy from our core work. Many of the obstacles that the Ministry of Justice places in our way appear to be breaches of guidance and, in some cases, the law; but finding ways to hold the department to account seems almost impossible with our current capacity.

The repercussions that prisoners face for organising can also be a challenge. Prisoners deemed to be disruptive can be moved at a moment's notice, leaving us unable to contact them until they can write to us and tell us where they are. Prisoners are also placed in segregation without clear grounds, reducing their opportunities for contact with the outside world. Monitoring of phone calls, bullying and intimidation from officers, and theft of mail are everyday indignities our members experience for being seen to cause trouble. Although many of these repercussions are in direct violation of the law, prison rules or Ministry of Justice guidance, there is usually little recourse for us to challenge them.

Similarly to prisoners in the US, our members inside raise a broad range of issues. Those inside clearly understand the exploitative nature of prison labour and the immorality of their low wages (average pay in prison is just £6 per week). However, this is rarely at the top of the list of concerns. Those we write to routinely draw our attention to the appalling lack of access to healthcare, particularly mental health care, and an environment that is killing them and their peers. They also discuss the Kafka-esque merry-go-round of rehabilitation courses, parole hearings, probation supervision and recall to prison. Others highlight the physical and psychological torture of the UK's high security units, such as 'close supervision centres' and segregation, where some are held

prisons regularly go missing, phone unication are draconian... We are constantly city to challenge this successfully."

in solitary confinement for weeks, months and years.

Our inside members are clear that prison constitutes just one part of an apparatus designed to 'disappear' certain sections of the population through a toxic mix of state violence and state abandonment. They often discuss their interactions with the criminal justice system as part of a longer journey, through schools, care homes, mental health facilities and job centres, each institution focused on punishment and pathologisation. Their fight is much more than a simple case of the workers vs the bosses. This is about a society that makes people disposable and the belief that we can build something better.

What we need

With advice and support from IWOC comrades in the US and other abolitionist groups in the UK, IWOC in the UK has recently expanded its outside membership and is starting to overcome some of the capacity difficulties of its first few two years. It's an exciting time for our organisation and for the UK abolitionist movement in general, with more and more people interrogating the function and the claims of the criminal justice system and demanding a complete shift in the way we, as a society, view harm and how to address it.

But we need your help! Building our membership inside is a slow and painstaking process. We are constantly experiencing censorship and don't currently have the knowledge or capacity to challenge this successfully. Without good legal contacts and support, we are also wary of incurring repercussions for our members inside. A sudden move to a new prison or time in segregation can mean the difference between life and death in some cases and we need help to ensure we can challenge these practices in a language the system understands. A number of our members are on long-term or indeterminate sentences, attempting to meet the ever-changing requirements of the Parole Board. We want to help more of these members in securing their long overdue release from prison and need those with professional knowledge of these systems to help us do so.

People inside prisons are resisting the treatment they and their peers face every day, using a myriad of ways to push for change on small and large scales. With organised, consistent and informed support from the outside, this resistance has the potential to chip away at the system and to reframe the public conversation on criminal justice. If you would like to help us do this, please get in touch.

Email: iwoc@iww.org.uk – or write to us: IWW, PO Box 5251, Yeovil, BA20 9FS. Website: iww.org.uk

The uncertain future of UK labour law: 'one step forward and one step back' is getting workers nowhere

by Declan Owens

On 7th June 2019 Australia's Fair Work Ombudsman ruled that Uber drivers are not 'employees' and therefore have no right to a minimum wage and paid holidays. Similarly, the US federal agency, the National Labor Relations Board, stated in early May 2019 that Uber drivers are not legally 'employees'. This followed a nationwide strike by Uber drivers in seven US cities on 8th May 2019. In contrast, the Californian state assembly overwhelmingly passed legislation on 29th May 2019 to force platform companies such as Uber to recognise gig-economy workers as employees.

Of course, this battle for workers' rights over the so-called 'gig economy' is also taking place in the UK. Two judgments in December 2018 highlight the current, faltering, trajectory of UK labour law: one step forward and one step back.

One step forward: the Uber Judgement

An English Court of Appeal decision in December 2018 offers some hope for precarious platform workers in securing enhanced employment rights (*Uber v Yaseen Aslam & Others*). A majority of the Court dismissed Uber's appeal against a landmark employment tribunal ruling that its drivers should be classed as 'workers' with access to the minimum wage and paid holidays. >>>

Pictures: Jess Hurd / reportdigital.co.uk

>>> The 'worker' test focuses on what has been contractually agreed between the parties. Like in Australia and the US, many recent employment status cases have involved individuals working in the gig economy, where contractual documents describe them as self-employed, independent contractors (with few employment rights) as opposed to workers. The question is whether tribunals should respect that characterisation.

Unsurprisingly, the contracts in this case portrayed Uber drivers as self-employed service-providers who contracted directly with passengers. This would make Uber merely an intermediary providing booking and payment services to drivers. However, the Court of Appeal agreed with the tribunal that it was not realistic to regard Uber as working 'for' the drivers. The reality was the other way around: Uber runs a transportation business and the drivers provide the skilled labour through which that business delivers its services and earns its profits.

Uber has been granted permission to appeal to the Supreme Court. The case may have extensive consequences for other gig economy workers, so it is worth exploring the issue in dispute. The difference between the majority judgment and Underhill LJ's dissent, on which Uber is likely to rely, is the difference between an expansive and a strict application of the Supreme Court's judgment in *Autoclenz Ltd v Belcher*.

"Many recent cases have involved individuals working in the gig economy, where contracts describe them as self-employed, independent contractors (with few employment rights) as opposed to workers."

In *Autoclenz*, employment contracts between a carwash and car valets concealed the true nature of their working relationship. In practice, the car valets were required to provide personal services and were under an obligation to do some work (classic indicators of being a 'worker'). The contractual documents on the other hand falsely stated that no such obligations existed. Given the unequal bargaining power between the parties, the tribunal could disregard those terms in answering the question of employment status.

The majority in the Uber case effectively put the written agreement to one side, considered the 'reality' of the working relationship as it operated in practice, and decided that that 'reality' corresponded to 'worker' status. Underhill LJ's dissent argues that this is too expansive: *Autoclenz* should not be interpreted as authorising a tribunal to rewrite the written contract simply because one party's superior bargaining power resulted in disadvantageous terms. Instead, contractual documents should only be ignored if they present a false characterisation of the employment relationship. The legal relationship between Uber and its drivers

"The majority in the Uber case put the written agreement to one side, considered the 'reality' of the working relationship as it operated in practice, and decided that that 'reality' corresponded to 'worker' status."

was, according to Underhill LJ, the kind of agency relationship commonly adopted by taxi and private hire firms.

Underhill LJ's dissent could be persuasive in its interpretation of existing employment status tests. As he points out, the problem in the Uber case may not be that the written terms mischaracterised the true relationship but that the relationship they created was unprotected by the law. The majority rightly sought to extend the common law to fill that gap but Underhill LJ considered this inappropriate, holding that 'protecting against abuses of inequality of bargaining power is the role of legislation'.

Underhill LJ found support for this view in a legal journal article by Sir Patrick Elias, former President of the Employment Appeal Tribunal ('EAT') and Lord Justice of Appeal, who gave judgment in a number of leading employment status cases. That two former Presidents of the EAT are in agreement on this topic suggests that Uber's prospects of success at the Supreme Court have some authoritative judicial support. On the other hand, the Supreme Court may well decide that, even if the Court of Appeal majority did extend the reasoning of *Autoclenz*, it was desirable and proper to do so, despite Underhill's LJ caution about the courts stepping on Parliament's toes.

One step back: the Deliveroo judgment

In the same month as the Uber judgment, the High Court rejected a judicial review challenge brought by The Independent Workers Union of Great Britain (IWGB) trade union against the Central Arbitration Committee's (CAC) decision that food delivery riders are not 'workers' and so cannot rely on the collective bargaining recognition arrangements set out under Schedule A1 to the Trade Union and Labour Relations (Consolidation) Act 1992, or TULR(C)A.

The dispute before the CAC focused on whether the riders' contracts contained an obligation of personal service, which is deemed to be a crucial element of the legal test for 'worker' status. Delivery riders for Deliveroo work under non-negotiable 'supplier agreements' which describe them as suppliers in business on their own account who wish to provide delivery services to Deliveroo. The agreements state that there is no obligation on Deliveroo to provide work and no obligation on the rider to be available at any time or to accept work – riders can reject jobs without penalty and it is entirely up to them when and where they decide to work (within the company's areas and opening times). Riders can work for other organisations, including competitors. >>>

>>> IWGB relied upon Article 11 of the European Convention on Human Rights in its interpretation of worker status. Article 11 states that 'Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of [their] interests'. IWGB argued that the restriction of statutory recognition to conduct collective bargaining to 'workers' under TULR(C)A breached this provision.

Deliveroo argued that Article 11 was not engaged and, unfortunately, the High Court agreed. Whilst the reasoning on this point was unclear, which might help IWGB in its intended appeal, the Court also concluded that the exclusion of non-workers from the right to trigger the statutory recognition procedure would have been justified under paragraph 2 of Article 11 in any event.

"The IWGB argued that the restriction of statutory recognition to conduct collective bargaining to 'workers' under TULR(C)A breached Article 11 of the European Convention on Human Rights."

Paragraph 2 provides a list of qualifications to the right to freedom of assembly, one of which is the protection of 'rights and freedoms of others'. The Court held that this includes freedom to contract on terms the business chooses to offer, including freedom from the imposition of bargaining arrangements. It deemed the restriction proportionate and 'rationally connected' to this objective by limiting the cases in which the 'burden' of collective bargaining should apply. The justification for this interpretation was that such a restriction does not affect anyone who was contractually obliged personally to work. Nor does it prevent riders from belonging to a union if they choose to do so, or making voluntary arrangements. All it precluded was the compulsory mechanism provided by Schedule A1 to the TULR(C)A.

Over the last couple of years, several gig economy workers have successfully established that they fall within the definition of 'worker' and so benefit from various employment rights and protections. This case goes against the trend, confirming that Deliveroo riders who were said to be genuinely contractually entitled to provide a substitute – and so were not required to provide personal service – were not 'workers' for the purposes of collective bargaining, even in the light of the Article 11 right to freedom of association.

A leap forward for (gig economy) workers?

Both the Deliveroo and Uber cases were due to be appealed at the time of writing and both appeals hinge on the issue of employment status. Unfortunately, the legal understanding of what constitutes a 'worker' still relies on archaic judicial tests that are proving problematic for labour

"Gig workers cannot presently rely on judicial interpretation of existing legal tests to even secure the starting point of statutory recognition of collective bargaining, never mind achieving wider justice. A political strategy needs to underpin any legal strategy."

rights in the gig economy, especially in relation to collective rights. They originate in the precedents of common law judges who placed undue ideological and legal reliance on the commercial terms of contracts – and the master/servant premise that underpins it – as opposed to the rights of wage-labourers.

A legal strategy that could be adopted under English law in light of the challenges outlined in the Deliveroo case is to maintain the argument for the right to collective bargaining to be judicially accepted as one of the essential elements of the "right to form and to join trade unions for the protection of [one's] interests" set forth in Article 11 of the European Convention on Human Rights, and further protected under ILO Conventions 87 and 98 to which the UK is signatory. However, a strategy that is overly reliant on placing its hopes in a favourable interpretation of European and international labour law at the UK Supreme Court is limited in its ability to protect workers. Indeed, gig workers cannot presently rely on judicial interpretation of existing legal tests to even secure the starting point of statutory recognition of collective bargaining, never mind achieving wider justice. A political strategy needs to underpin any legal strategy.

In this respect, the Institute of Employment Rights in 2016 produced a 'Manifesto for Labour Law' which would provide the transformative changes necessary to start to change UK labour law and institutions for the better. This Manifesto was drafted by academic lawyers and labour law specialists and was adopted in part by the Labour Party in its 2017 General Election manifesto. A detailed description of its proposals is beyond the scope of this article, but crucially they include the need to ensure universal rights at work for all workers, not just employees; freedom of association; a labour inspectorate; a Ministry of Labour; and the right to strike, without which collective bargaining 'is little more than collective begging'. In an era of increasing precarious work for workers in the gig economy, the Manifesto is a comprehensive political, legal and industrial strategy to provide the institutional means to address injustice in the modern workplace and secure the right to collective bargaining in a manner the flat-footed common law and the misconceived statutory recognition regime do not currently provide.

Declan Owens works at Thompsons Solicitors, though he is writing in a personal capacity. Joseph Latimer contributed. A fully-referenced version of this article is available on request.

Pictures: Jess Hurd / reportdigital.co.uk

LEGAL AID AND THE NHS: CUT FROM THE SAME CLOTH?

by Alex Temple

Fearing for the NHS is utterly entrenched in British politics. The political party most committed to funding it, protecting it from the interference of foreign capital and keeping it free at the point of delivery are questions that politicians answer unprompted in Westminster elections.

The logic is straightforward: we all might need the NHS, but very few of us can afford what it offers if charged. It's become implied that it's the job of the state to keep it accessible.

Among access to justice campaigners, comparing public healthcare to public legal services is not new. Still, when lawyers stand up for a properly funded and publicly accessible legal system, free at the point of delivery, they tend to be seen as exploitative self-promoters, rather than concerned citizens – in absolute opposition to, say, striking doctors.

This unhelpful dichotomy allows the government to defund the public legal advice sector without anyone but the lawyers leaping to its defence. And lawyers, having successfully retained their status as a living punchline to jokes about untrustworthiness and self-enrichment, are hardly helpful standard bearers in this crusade.

The bottom line is that some people absolutely need a lawyer. There are people for whom access to justice means preserving life and limb every bit as much as access to medical treatment. But the Legal Aid Agency, the government body responsible for funding people's legal services, has been cut and cut and cut and we've not done enough to resist it.

Often, cases of the most crucial importance to the people bringing them are judicial review claims. The importance of judicial review was not lost on Jean (not

her real name). Jean was looked after by the local authority. She was put in a placement with mostly adult men with issues around substance misuse and mental ill-health. She experienced regular abuse and feared being alone in the placement at night. People had, several times, attempted to force entry to her room.

She was advised to bring a claim against the local authority. This was not for money, she would not get any, but for an order saying that the local authority needed to comply with their duty to provide her with a safe place to live.

The problem for Jean was that she was working – she had an apprenticeship. This was a remarkable achievement for a 17-year-old vulnerable person – a young person who had suffered truly terrible experiences throughout her childhood. Her income was low, but it made her ineligible for legal aid nonetheless.

So the state would not fund her claim because she was earning. This might seem logical, after all: if she was earning enough to be ineligible, presumable she didn't need help? Some quick maths puts the issue beyond doubt. First off there's the cost of her own solicitors. We might scratch that because some charities will do this work for free. Obviously, the hypothetical person might not be lucky enough to find one, but it's possible.

The court's fees are at least £924 if you go to a final hearing. Barristers' fees would be anywhere up to £10,000 to a final hearing. If the claim were heard and Jean lost, she may need to pay her opponents' fees. This could be in the range of to £20,000 or more.

So Jean would need to have £31,000 pounds available. It won't shock you to hear that the young woman attempting to get out of a hostel where she feared for her safety, and working her first apprenticeship, didn't have £31,000. She couldn't bring that claim, and despite receiving legal advice that she had very strong chances of success in court, the local authority did not have to move her.

Later, she got into a fight in her placement and was arrested. She lost her apprenticeship.

Did she have alternatives to legal aid funding? There are conditional fee agreements ('no-win-no-fee schemes) for legal costs. They have their uses, but there are two problems. First, they are only available for large cash value cases. This is because they require a special type of insurance called an 'after the event insurance' policy. These cost around £15,000 for High Court cases. You don't pay the premium you lose, but the case needs to involve a damages claim so that the cost of the policy has some way of being paid. Additionally, the lawyers scrap their costs if you lose, but to make up for that risk, they charge a 'success fee' above their original bill of costs if you win. That comes out of your damages and might be as much as 80 per cent of their costs. They can't charge you a success fee if there's no money value in the claim. The second problem is they can be quite controlling. Once people enter them, failure to pursue the claim to conclusion or engage with the process might result in the client becoming liable for the costs accrued. After all, law firms don't want to start work on a case they won't finish if they're only going to get paid if the case is won.

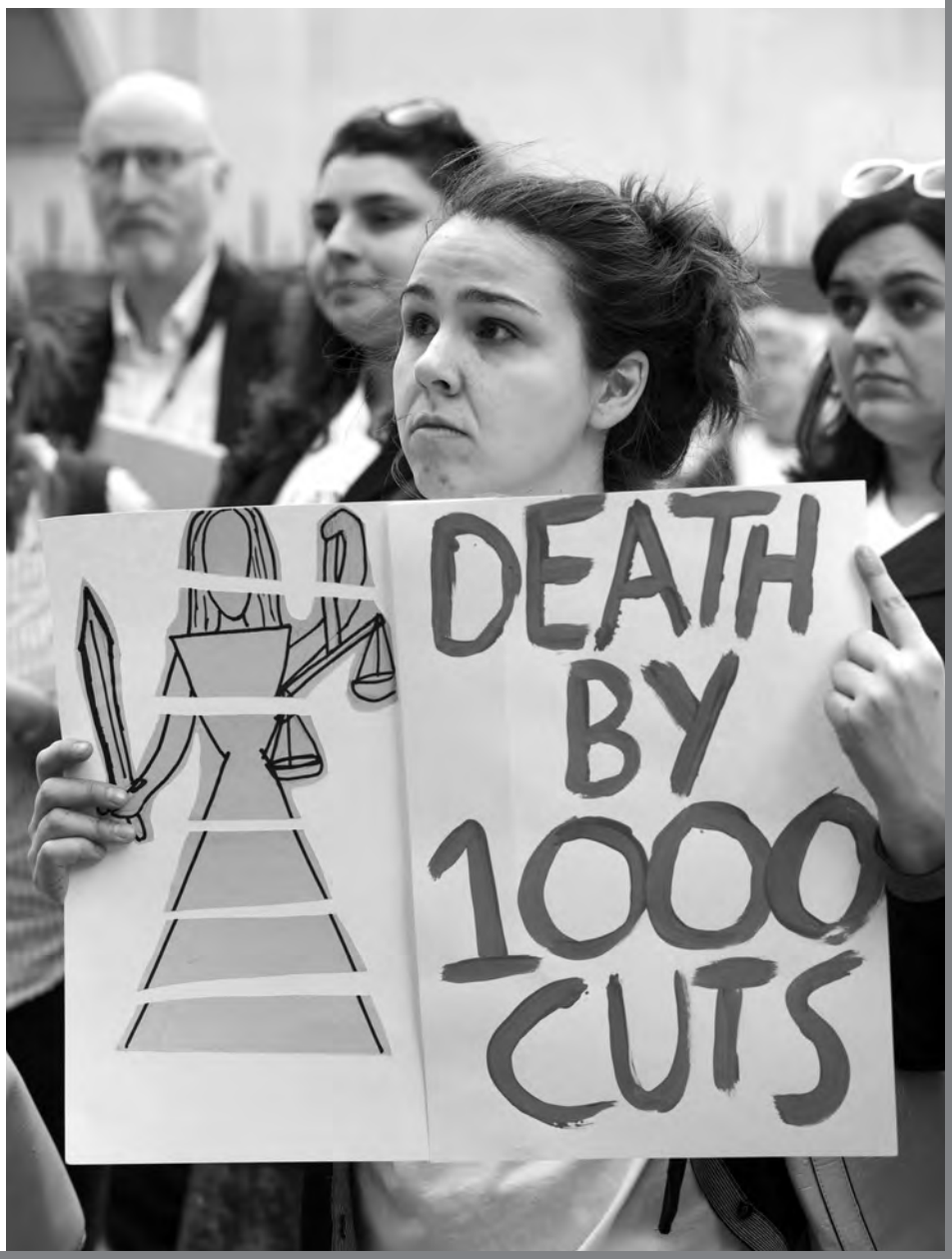
"The government is proposingto restrict the number of people receiving Universal Credit automatically considered eligible for legal aid."

The simple fact is that people like Jean are priced out of justice. And judicial review is sometimes the only recourse available for the most critical situations, such as risk of deportation, removal from education, refusal of housing support, unlawful prosecutions, hospital closures and a myriad of other situations.

To show just how far this has gone, and how few people receive legal aid, the government is currently consulting on proposals to restrict the number of people receiving Universal Credit who are automatically considered eligible. Presumably the government thinks you can both be on Universal Credit, and capable of paying £30,000 in legal costs.

The coalition government dramatically cut legal aid, and the whole system has barely held together since. It's time we championed it, like we do the NHS. They are cut from the same cloth.

Alex Temple is a public lawyer and policy officer at Just for Kids Law but is writing here in a personal capacity



Picture: Jess Hurd / reportdigital.co.uk

Some of the Descendants and family members of the Windrush Generation – many of those who came after 1973 and 1988 – are excluded from using the Windrush Taskforce (who operate the Windrush Scheme) to regularise their immigration status or obtain proper compensation. We say:

'Widen Windrush!'

It is well known by socialists that the United Kingdom has a racist colonial history and legacy. The rottenness of that legacy manifested in the Windrush scandal, where the racism that was exported abroad was exposed at home through the absurdities of British immigration legislation. It was an open secret that black, Asian and migrant communities have known for decades; the whole system of British immigration controls and Home Office decision-making is inherently racist and shaped by anti-immigrant rhetoric by sections of the media and politicians of all stripes, including Winston Churchill and Theresa May. The revelation of the scandal in 2018 caused widespread shame and publicity but much needs to be done to achieve justice for its victims.

The Windrush Scheme was set up to address the difficulties faced by members of the Windrush Generation, large numbers of whom were prevented from working and subjected to detention and/or removal as a result of the 'hostile environment' policies. It established the basis for the Windrush Taskforce to investigate and expedite these cases without fees and ensuring speedy documentation was issued. It is the central practical measure introduced to remedy the nightmare that this important generation has been subject to.

The Windrush Scheme takes as its starting point existing legislation, in particular the 1971 Immigration Act. It fails to take into account the roots of the Windrush scandal that lay in the discriminatory aspects of that Act, which (along with the 1968 Legislation) came about on the back of a racist backlash against black and Asian immigration, led by Enoch Powell. The 1971 Act cemented the rights of those who were born British in the then-colonies and commonwealth and were already settled in Britain, not as full British citizens but as people with the right to be treated 'as if' they were British citizens. This 'as if' is crucial and meant that this generation and their descendants continue to have second-class status. In addition, the 1971 Act left a door open to descendants of British citizens from the 'older colonies' (code for majority white countries such as Australia, the USA etc.) to claim British Citizenship more easily through its 'patriality' clause. Many of the people being refused by the Windrush Scheme would, if their parent/grandparent had been white and from one of these 'older colonies,' have been able to settle in the UK by means of ancestry visa and acquire British citizenship with relative ease.

"There is no moral justification for excluding the descendants who joined their families after 1988."

There is no moral justification for excluding the descendants and family members who joined their Windrush Generation families after 1988. Windrush Generation families from across the Commonwealth experienced serious financial barriers due to the inequalities and discrimination of the past. For many, those barriers were the reason they could not >>>

Picture: Jess Hurd / reportdigital.co.uk

"This compensation scheme has fallen woefully short of its expectation and of what is fair. British citizens have been wrongly deported, prevented from returning home and have lost their jobs. This government has been disgracefully slow to do the right thing by the Windrush generation. They are still failing to address this scandal, which will continue until they end the hostile environment."
Diane Abbott MP

>>> bring across younger children and grandchildren. Despite this, and the extreme racism they faced, this generation is now recognised as intrinsic to British society. That their descendants and family members continue to be subject to detention and removal is unacceptable.

Movement for Justice began campaigning on the issue of Windrush as a result of its work inside and outside Yarl's Wood Immigration Removal Centre, seeking to get it (and all detention centres) shut down. In the course of that work, in April 2018, not long after the Windrush scandal broke, they met two women detained there, Yvonne Smith and Yvonne Williams. Aged 63 and 59, these Jamaican grandmothers have extensive British families who came to the UK as part of the Windrush Generation; they themselves did not come to the UK until the death of their grandparents in Jamaica in the late 1990s and 2000s. They had been held in Yarl's Wood for almost nine months when they met campaigners from Movement for Justice. They were separated from their families, including their children, British-born grandchildren and elderly Windrush Generation parents. They had tried to regularise their status for almost 20 years, and every time the Home Office told them that their family ties were not 'significant' enough.

Therefore, despite their being so intimately connected to the Windrush generation, these two 'children of Windrush' were not recognised as part of that generation by the government and so were not covered by Windrush Scheme measures or Taskforce. Both women were given removal directions on a charter flight to Jamaica. Thankfully, because of the publicity about their cases, they were both released, but remain at risk of detention and removal.

Movement for Justice has set up its 'Widen Windrush' campaign and lobbied MPs on 19th June 2019, calling on Parliament to pass an amendment to the Windrush Scheme, widening it to include 'Group 5' (currently 'Windrush Children – child of a Commonwealth citizen parent settled in the UK'). This amendment would provide a route to citizenship for the descendants and family members of the Windrush Generation. This category of people is currently excluded from

Picture: Karen Doyle

Movement for Justice's Widen Windrush national lobby of parliament on 19th June 2019, hosted by Janet Daby MP.

the scheme because they arrived in the UK to join their Windrush Generation families as adults after 1988.

Primary legislation is not required to amend the Windrush Scheme because it was set up through a statutory instrument. The Home Office have discretionary powers to grant leave to remain and already waives certain requirements. Adding this additional category would simply involve applying discretion in applications of descendants and family members, providing them with a route to citizenship. That is the very least that they deserve in their battle for justice in the ongoing fight against racism at the heart of Home Office immigration policies.

Justice for the Windrush Generation means justice for all those who have been abused by the Home Office. Equalities legislation was won by the rising up and collective mobilisations of the Windrush generation and their descendants, and it led to deeper measures of equality for all women and working class people; in a similar vein the Windrush scandal and the movement mobilised to put right this terrible wrong has the potential to bring about fundamental changes that positively impact all migrant communities, to finally end second-class and unequal citizenship.

There is no 'case by case' solution for the many thousands of people affected. The most important and immediate practical solution to years of racist decision-making and incompetence is a full, immediate and unconditional amnesty for all those who are living, working, studying here who do not have secure immigration status. It's time to wipe the slate clean, give lives back to hundreds of thousands in our communities, neighbourhoods, workplaces, schools and universities.

Movement for Justice make various other demands, including no cap on compensation to victims of the Windrush scandal; a waiver regarding naturalisation for all those who have been affected by the Windrush scandal; the grant of immediate citizenship and give people their passports; restoration of the right to settle in the UK to the children and grandchildren of those British (CUKC) citizens who were born outside of the UK; a thoroughgoing independent and public review of British immigration and nationality legislation dating from the 1962 Commonwealth Immigration Act onwards, with a view to a radical overhaul of this legislation, considering it alongside equality and human rights legislation of today; an independent public inquiry to examine in depth the Windrush scandal; an immediate end to all Hostile Environment policies, starting with the immediate repeal of the 2014 and 2016 Immigration Acts; reversal of the burden of proof in immigration and asylum cases; and the reinstatement of legal aid for all immigration cases. The Haldane Society supports these demands and the victims of the Windrush scandal in their struggle for justice.

Readers can use the search term #WidenWindrush to find out more information on the campaign. Movement for Justice are looking at possible legal action and would welcome input from solicitors who have come across the same issues who may be able to help.

https://movementforjustice.co.uk/widen_windrush/ #WidenWindrush Campaign
info@movementforjustice.co.uk
@followmf

LISTED FOR A MENTION: THE POLITICS OF 'BARRISTER TWITTER'

by The Marxist Barrister

'Before twitter the idea that an ordinary person could defeat a QC in an argument seemed absurd' said Twitter user *@politicsofnv*, 'Now, it happens about five hundred times a day'.

Barrister Twitter

In the last few years a very distinct cohort of internet commentators has emerged. Called 'barrister Twitter' or 'QC Twitter', the name doesn't just denote the community of lawyers who use the platform, but something more specific. Barrister Twitter is characterised by self-assured centrism and a 'grown-up' approach to politics. Its tone and behaviour – its very existence – are so telling of the state of law and politics that it is worth examining the phenomenon to see what it tells us about ourselves as lawyers.

Among the first to emerge was tax barrister and former New Labour adviser Jolyon Maugham QC. But barrister Twitter is now a crowded field, and (notably) includes Twitter celebrity and bestselling author Secret Barrister, human rights lawyer Adam Wagner, legal commentators Dave Allen Green and Joshua Rosenberg, and a cadre of anti-Brexit liberals like Sean Jones QC, Jessica Simor QC and Schona Jolly QC. Dozens of others run smaller personal accounts.

Barrister Twitter is a combination of tone and outlook. It is totally opposed to class politics (Maugham decries the 'politics of enmity' in relation to casting Tory cuts as violence, Chris Henley QC and others blithely accept the premise that barristers deserve higher pay than McDonald's workers).

It is patronising and know-it-all. It rejoices in anything that harms Jeremy Corbyn personally or the left generally. It is interested in legal remedies to social issues, tending to discuss the merits of defamation claims against Twitter users or legal cure-alls such as (for example) the prosecution of Boris Johnson or the Brexit litigation.

'I can teach you, but I have to charge'

Things reached a head in the spring of 2019, when a number of high-profile far-right personalities were 'milkshaked' during the EU election campaign. Almost with one voice, barrister Twitter decried this critical act of community self-protection as unlawful.

The Secret Barrister (*@BarristerSecret*) launched into a technical analysis of the legality of milkshaking fascists. The justification for that – that the analysis expressed no view on the merits of forcefully opposing fascism but was merely exploring the law – was unconvincing precisely because the 'moderate' barrister's first instinct had been to look at the issue through the 'neutral' lens of the law rather than engaging with the obvious political or moral aspects.

Faced with a 'slippery slope' discourse, Simon Myerson QC's take was 'Saying throwing milkshakes has no connection to throwing fists and then to murder is like saying cannabis has no connection to crack and heroin. You want it to be true because you want cannabis. In most cases its true. But virtually every murderer has thrown something first'. Probably every single one of us has thrown food. This

"Their function is to evaluate problems within the existing confines of the law, rather than to consider the morality of a situation..."

extraordinary submission fails on its own logic.

But the prize went to Sean Jones QC. Jones was responding to a stunning critique of barrister Twitter ("'What did you do when the country was falling into the hands of the far right daddy?" "Well son, I was making sure people knew that throwing milkshakes was a crime for a few dozen retweets"') and came up with this: 'What did you do when the country was falling into the hands of the far right daddy? Hmm, which to choose: 1. Throwing some milk; or 2. Standing up for the Rule of Law?' It's a tweet so masterful in its conceit, so staggeringly liberal, that Jones is accidentally unclear and it's genuinely difficult to understand which side he's arguing for. Preferring the law to the politics, this tweet is QC Twitter *par excellence*.

Why has this happened?

Barrister commentators are nothing new. As Patrick O'Connor QC has pointed out, former Supreme Court judge Jonathan Sumption QC was a right-wing columnist and author in the 1970s (Sumption's successors as right-wing barrister-commentators are the likes of *Spiked*'s Jon Holbrook and, to a more limited extent, Rupert Myers) and the left has its own heritage of lawyer-commentators.

Perhaps barristers have a tendency to comment on politics because of their unusual situation – their 'double freedom', to use a Marxist term. They are free to express their views because (as self-employed workers) they aren't constrained by contracts of employment limiting their ability to make public statements. They're also free from the encumbrance of self-doubt (either in respect of their intellectual abilities, or in respect of whether their opinion matters).

In their professional lives, barristers are constantly assured that their thoughts are valuable, that their view is important. They are paid to express their analysis. Importantly, their function is to evaluate problems within the existing confines of the law, rather than to consider the morality of a situation or to engage with any supra-legal approach.

And beyond that, the legal profession constantly reminds itself of its own social standing. Online QCs can therefore hit the 'tweet' button with total confidence that they are expressing the opinion of a bright, well-informed, respected person – someone skilled in argument and analysis – even when they're totally wrong.

Perhaps it's unsurprising, then, that when a milkshake slipped out of the hand of a young man of colour, making unexpected contact with Stephen Yaxley-Lennon, Barrister Twitter's supercilious response was 'this is unlawful and a challenge to the rule of law', rather than 'this is a praiseworthy deed, and a valuable successor to Cable Street in the fight against fascism'.

Twitter's response

The further the cyber silks waded in to politics – relentlessly trumpeting their cocksure analysis – the more drenched they became. Look at Maugham's timeline, for example, and virtually every political tweet has the dreaded 'ratio': a phenomenon where the number of replies to a tweet (which tend to express disagreement or debate) far outweighs the number of 'likes' or retweets (which >>>

"The vast majority seem to be incapable of critical thought outside of the incredibly narrow bounds of interpreting the law."

>>> express agreement). As @*politicsofnv*'s tweet, above, makes clear, their artificial jurisprudential thought processes have very little traction in the real world.

On one view barristers are simply very good at defending and administering ruling class ideology. For that they deserve no particular criticism, since they never pretended to be doing anything else. But one's ability to administer the law, however unjust it might be, promotes a capacity for memory – and deference to authority – over critical thinking and independent political conviction. It's when barristers cross over into Twitter, and its politics, that they reveal this deeply held conservatism.

Barrister Twitter seems to believe that Parliament and judges change the law. In that universe, popular movements are always a malevolent distraction from respectable parliamentary and legal procedure. Hence Secret Barrister feels able to belittle Grenfell protestors after they objected to the (ongoing) lack of criminal prosecutions. History proves that the political, media and policing arms of the establishment are willing to collaborate to cover up wrongdoing and smear the traumatised working class victims of the Hillsborough disaster. That twenty years of political pressure was needed to bring the powerful to account, and that such pressure might be needed to achieve justice for Grenfell, doesn't cross such barristers' minds.

In short, the vast majority of barristers seem to be (publicly) incapable of critical thought outside of the incredibly narrow bounds of interpreting the law. They prefer instead to make a living out of deferring to, and apologising for, the powerful.

Their exposure on Twitter is reminiscent of Steven Jay Gould's quote that he was 'somehow less interested in the weight and convolutions of Einstein's brain than in the near certainty that people of equal talent have lived and died in cotton fields and sweatshops'. Twitter totally demystifies barristers' supposedly brilliant minds, as 'ordinary' users unpick their trumped-up analysis with admirable ease and clarity.

Conclusion – does this really matter?

This analysis is not intended as mere snark (I say 'mere', though snark is the very lifeblood of Twitter). We learn a lot about the interaction between law and politics from our learned friends' content.

Why does this matter? Because every year hundreds – perhaps thousands – of people throw themselves at legal practice in the mistaken belief that the law is a radical place. That's generally wrong, and QC Twitter exposes it.

Socialists contemplating a legal career would do well to heed Duncan Kennedy's timeless advice: imagine yourself as part technician, part judo expert, able to turn the tables exactly because you never let yourself be mystified by the rhetoric so important to barrister Twitter.

The Marxist Barrister: @MarxBanister (yes that is spelt Ba**n**ister)

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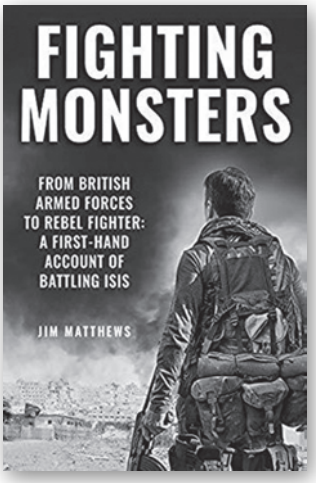
First-hand account of fighting ISIS



Fighting Monsters by Jim Matthews. Published June 2019 by Mirror Books. Paperback, 336 pages. ISBN: 1912624001.

This war memoir by Jim Matthews is a compelling read that lives up to the promise on the dust jacket – it describes 'the reality for those fighting ISIS in their own country and for those, like [Matthews], who join that fight'.

With both a background in anarchist activism and experience of active service with the British Army in Bosnia, the book recounts Matthews' experiences from the moment at which he abandoned his job teaching English in Saudi Arabia to go and join the YPG (People's Defence Units), the principal militia of the Kurdish-led forces now in control of much of north-eastern Syria.

The YPG has its roots in guerrillas fighting for Kurdish national liberation under the Cold War umbrella of 'official' communism, but in recent decades it has been guided by its imprisoned leader Abdullah Öcalan towards a new ideology of 'democratic confederalism', which favours decentralisation, gender equality, and participatory democracy. When Matthews made his way to join them in 2015 the YPG's position was even less secure than it is now. ISIS was then at its zenith, with enough territory surrounding its capital of Raqqa that its pretensions to statehood were not so easily laughed off. The YPG were instrumental in holding the line against ISIS and then ultimately wiping out the nascent Caliphate. It was this high stakes struggle, to which the title of the book refers, which was clearly a key motivation for Matthews in risking life and limb.

However, the book contains very few observations of everyday life *inside* the decentralised cantons which make up the Autonomous Administration of North and East Syria, commonly referred to as Rojava. If this is simply due to how long Matthews spent in the ranks of the YPG and how little time he spent away from the front, then this omission is hardly one for which he can be criticised. But the inevitable impact is that while the book offers an excellent account – blow-by-blow at times – of what the *war* was like, exactly what was at stake in that war is lost from focus. After all, ISIS aspired to wipe out not only the experiment in Rojava, but also the corrupt and decaying regimes in Baghdad and Damascus. Matthews makes no secret of his general cynicism, especially when it comes to young Kurdish ideologues in thrall to Öcalan, but before deciding to join up he finds his reading on the struggle inspiring and yet 'almost impossibly utopian'. It would have been nice to gain a little more insight into why and how the YPG managed to inspire such commitment among its supporters even as Iraqi soldiers turned and fled. Readers looking for an analysis of the underlying political situation should find other resources to supplement this book.

Indeed, it is sometimes hard to get a sense of what continued to motivate Matthews himself, first to volunteer for as long as he did under impossible conditions and then to return after a period of rest and recuperation in France, putting himself in harm's way once again. Clearly there is a huge political gulf that separates him from, for example, the young fighter he encountered who planned to move on and join Assad's forces. But he gives little away about his own political assessment, and so the deeper reasons for his bravery remain somewhat obscure throughout.

The honesty of the book is both bracing and commendable. Matthews never hesitates to lay bare the frustrations, doubts, suspicions, and emotions at play. He also does not spare the reader from uncomfortable accounts of acts which on the face of it may amount to war crimes – desecration of corpses, mistreatment of prisoners, and YPG fighters manually fashioning bullets into 'dumdums' designed to explode on impact rather than pass cleanly through a human body. Clearly such practices come nowhere near the depravity meted out by ISIS on both civilians and combatants – but nor would they seem out of place in any other war waged by a bourgeois state. At the same time, the YPG are the only significant force in the Syrian conflict whose leadership have tried to uphold the Geneva Conventions. Any failings have to be set against their enormous contributions to the defence of human rights, most notably preventing the genocide of the Yazidi people. Those expecting impeccable standards from a leftist militia because of its noble aspirations and enlightened programme may be disappointed, but should read this book for exactly that dose of realism.

On his return to the UK in 2016 Matthews was arrested and charged with offences under the Terrorism Act. The perverse irony of his situation is laid bare in a few short pages of foreword, and he incisively notes: '[h]ad my case gone to trial, the prosecution would have had to explain how I could be a terrorist when I was fighting *against* a proscribed terrorist organisation – *alongside* an international coalition which included the UK'. While the charges were happily dropped in his case, there are others who will not be so lucky and will need our support. The Home Secretary's proposed new legislation to criminalise the simple act of travelling to countries like Syria is likely to have serious repercussions not only for those who take up arms, but also for journalists, human rights activists, and many others.

Rojava is no utopia – anarchist, socialist or otherwise. But the struggle of the Kurds and others living there represents a collective determination to build democracy of a kind that exists only nominally in this country. Therein we can discern part of the reason why the British state feels the need to persecute its own citizens like Jim Matthews, for the 'crime' of fighting alongside its own regional allies. If more people demanded here what the Kurds are demanding there, the British state might have a serious fight on its hands.

Edmund Potts

See Lucy Chapman's interview with Jim Matthews, pages 16-23.

"The perverse irony of his situation is laid bare in a few short pages of foreword, he notes: '[h]ad my case gone to trial, the prosecution would have had to explain how I could be a terrorist when I was fighting *against* a proscribed terrorist organisation – *alongside* an international coalition which included the UK'."

Labour law in the oldest profession

Revolting Prostitutes: The Fight for Sex Workers' Rights
by Juno Mac and Molly Smith, Verso Books 2018

This book gives a broad insight into the governmental policies, civil rights and legal rights of prostitutes worldwide. The book is divided geographically, into three sections of the world, which sometimes overlap in legislation. It provides an overview of how sex workers are treated, the differences that 'legalisation' of prostitution has made, and how sex workers are classified in society.

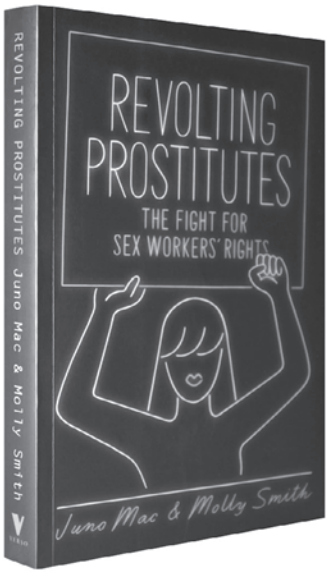
At first I struggled a bit with the book as it only discusses male clients paying female workers, though the writers then explain that sex workers come in all kind of forms and shapes (they are gay, bi, trans, cis, and non-gendered). But this is then followed by a long rant against the 'sarcastic' or 'liberal' feminist – and apparently these only exist in one form or shape. At first I am unsure if I understand exactly who the authors are railing against.

Delving deeper into this book it became clear why there is so much justified anger, since the established laws do not only fail to work in of sex workers' favour, but the workers themselves are getting more and more criminalised.

Women who are assaulted by male clients, and who decide to fight back, are put into prison. The book addresses the impact of the Crime Act in the US: the number of women arrested as a result of domestic violence has gone up by 91 per cent. One trans worker who complained to the police about abuse in her home was told that, since she was working as a stripper, she would be arrested too. On page 132 the authors give a clearer indication of why the book is raging against the 'liberal feminist': 'rhetoric like this doesn't just forget about victims of police and state violence – it throws them under the bus'. This is a response to the comment made by Amanda Marcote (in the US), who said that victims should be jailed as well if they refuse to cooperate to get the perpetrators sentenced.

The Obama administration put a lot of money into the police, though the book fails to explain what they think this was wrong. There is no account of where the money went, which departments were expanded, or whether more crimes were dealt with. The book covers a lot of issues simultaneously: discrimination, racism, gender inequalities, the casting of sex workers as bad mothers and bad, joyless women, and the cliché of 'murdered prostitute' that has made TV audiences almost numb to the notion.

On the subject of the US and the UK the book is very up-to-date, but some chances are missed. The part that deals with the way that Amsterdam's red light district works missed lots of changes that have taken place in the last 20 years. In the 1990s it was very much controlled by the Casa Rosso, an 'entertainment industry developer', and its owners and a few other well-connected families. This was around the time when webcamming began and quite a few women owned their own house and windows as a collective. The sex workers' organisation Rode Draad were already very active in organising and fighting for rights by then, and they are mentioned but not interviewed; it would have been very interesting to hear from them about how the recent legalisation has worked (there are now legal brothels where registered persons can work, but the managers still try to keep the workers under their control).



Sex workers in the UK demanding an end to the criminalisation of prostitution and the right to unionise.

Picture: Jess Hurd / reportdigital.co.uk

The writers want to tell a lot of people's (anonymous) stories, and the style is confusing at times. Sometimes the quotations are presented as academic sources, but on other occasions the source is just identified as 'someone in Malaysia'. The prose then jumps back to a short comment on the regulated brothels in Germany.

On that subject, many sex workers are unable afford to travel to the regulated premises or pay a large sum upfront to work there. And in Norway, building owners are fined if they rent out their premises and taken to court for encouragement of prostitution. One woman in Austria is frustrated with her 'outlaw position': she is registered and pays tax on her income but has no right to claim benefits, get a bank loan or do anything else legal to improve her circumstances. The further I get into the book the clearer it becomes that this is an active archive of people's life stories – people around the world who want to put on record the difficulties they face. There are the sex workers in Latin America who want to organise themselves and build a network, but get murdered as soon as they gain influence.

The list of acknowledgements is very long and shows the importance of this book as a source of information – a testament to sex workers' lives and material conditions – which is an important step in improving the laws. Sex workers need to feel free about their choices and build up their lives confidentially. It is really worth reading the many stories that are included.

Claudette Hulsman

Haldane Society of Socialist Lawyers

at the Labour Party Conference 2019

Israel/Palestine: Occupation Law, Human Rights and the Rights of the Child

Speakers to be confirmed

Sunday 22nd September

6.30pm in the Theatre, at Friends Meeting House, Ship Street, Brighton BN1 1AF

For more information: **www.haldane.org**

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