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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Sickness at the heart of capitalism

As socialist lawyers we have long recognised the sickness at the heart of capitalism. In these days of COVID-19 lockdown, with fear prevalent regarding the health and livelihood of millions in the UK, there should be a heightened awareness of the need for a socialist transformation of our society as inequalities become even more stark under the Tory regime. We have always recognised the value of health workers in the NHS, including the many migrants and support staff, such as low paid cleaners and security guards. Hannah Webb and Margo Munro Kerr, and Grace Cowell, have pertinent articles in this edition outlining some of the key pandemic issues.

Undoubtedly, the pandemic reinforces the need for an internationalist socialist outlook for our activities and expressions of solidarity. Bill Bowring reports on the work of the International Committee in the News section, Nour Haidar provides radical lawyering 'dispatches from Lebanon' and we have an important and timely article by Charlie Powell on the continuing need to resist colonial jurisdiction by defending the Wet'suwet'en territory from Canadian fossil capital. This theme was explored at the Haldane Society's AGM on 23rd January 2020 when we were inspired by Richard Harvey and Farhana Yamin with a call for system change for climate justice. Stephen Knight outlines the highlights from that evening in which we elected a new Executive Committee and Richard was elected as a Vice President after his many years of valuable work with the Society. In line with this call, we plan a conference at London South Bank University on 24th October 2020 on the theme of 'hostile environments' (for migrants, refugees and the climate) so please mark that date in your diaries.

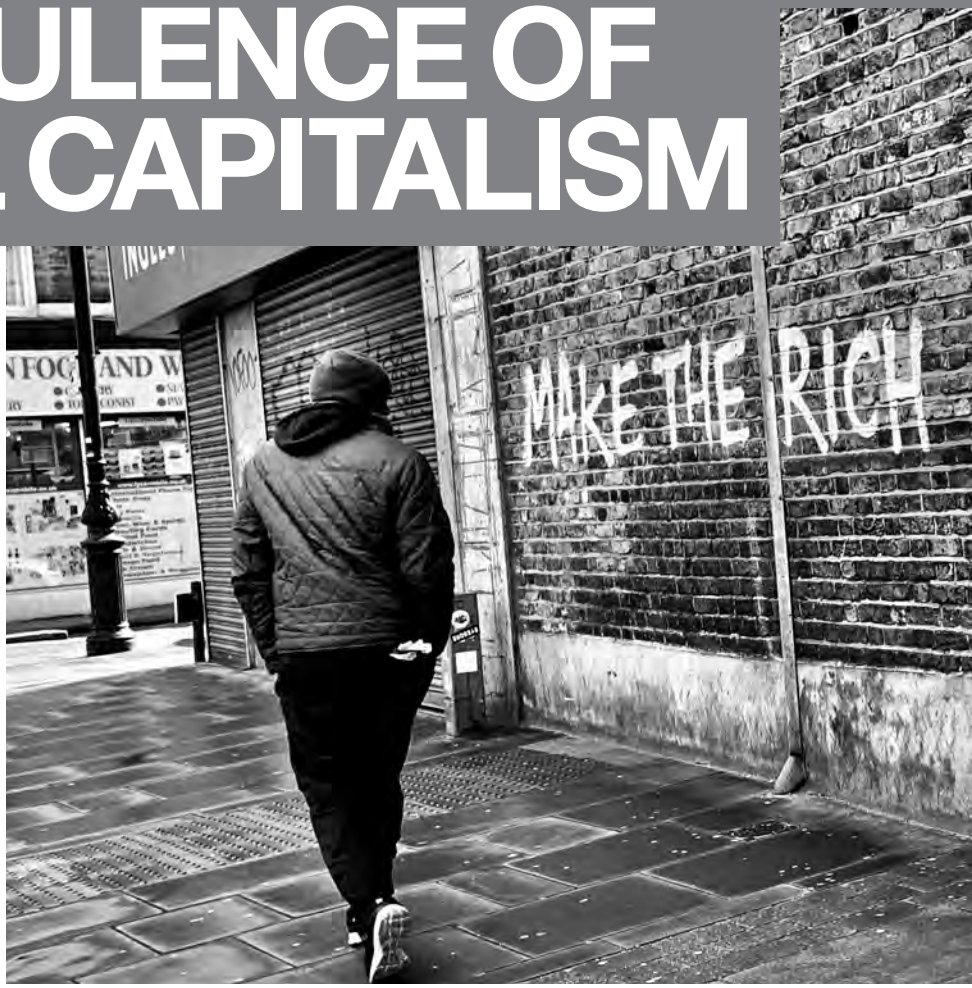
The News section contains articles tracking the impressive work of the Legal Sector Workers United branch of UVW in unionising the legal sector. In January 2020, Haldane Executive Committee member, Franck Magennis, was unlawfully arrested by police on the picket line while defending workers' rights with LSWU as its then Head of Legal. We offer solidarity to Franck and the UVW security guards he was supporting to secure in-sourcing at St George's NHS hospital, and in their legal case holding the police to account over Franck's false imprisonment.

There has been a handing of the baton at *Socialist Lawyer* with Joe Latimer taking over the task of continuing the great work that Nick Bano has undertaken as Editor for five years. We would like to thank Nick for his time and commitment in producing the magazine. I'm sure readers will agree that Joe has made an excellent start with this edition as they peruse the quality articles overleaf.

Finally, our thanks are especially due to Russell Fraser who stepped down as Chair after many years of superb leadership of the Society, though we are glad that he remains on the Executive Committee. We are also very grateful to Rebecca Harvey for her tireless and often hidden work as Treasurer after her stepping down. This year's Executive Committee continues to engage in the work of supporting our clients, and society more widely, by using our skills as lawyers in the collective pursuit of socialism. As Chair, I look forward to continuing to work with them, remaining inspired by their energy and commitment across an impressive range of practice areas and political campaigns.

Declan Owens, chair, Haldane Society (chair@haldane.org)

THE VIRULENCE OF GLOBAL CAPITALISM



by Joe Latimer

The United Nations' decade on biodiversity comes to an end this year. It was planned to culminate in a series of negotiations formed around the Convention on Biological Diversity, as well as a distinct but related conference organised by the International Union for Conservation of Nature. These are key platforms for states and civil society to address the catastrophic loss of biodiversity we are currently witnessing. Unfortunately for the global struggle for health and sustainability, plans have had to be postponed because of Covid-19, a problem which – at least in part – they aim to address.

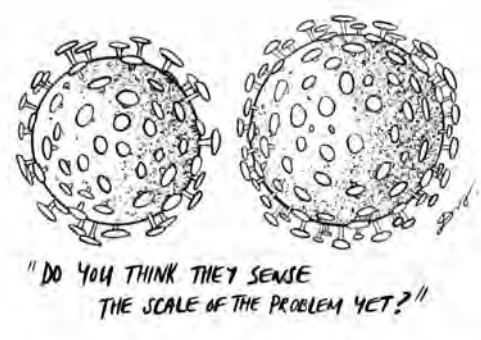
A growing body of evidence suggests that, through its assault on biodiversity, capitalist expansion has had a hand in the evolution of pathogens like Ebola, various strains of influenza and the new coronavirus. It is likely that industrial meat production and intrusion into complex ecosystems for raw materials and industrial agriculture undermine the 'immune firebreaks' between species that mitigate the spread of disease. Consequently, deadly viruses appear to be thriving and unleashing havoc with increasing frequency.

This worrying dynamic and the processes causing it are safeguarded by familiar ideologies that conflate capitalist expansion with social good and encourage the extension of the market into an ever-wider sphere of social relations. Years of neoliberal attacks on the NHS have damaged its infrastructure and left it ill-prepared for a pandemic. More generally, the profit motive in the field of medicine has caused research into key antivirals to be neglected. As socialist lawyers, we must reject the chancellor's plea that this pandemic 'is not a time for ideology': understanding how neoliberal governance has intensified the threat is key to protecting health.

The Tories' initial response was characterised by its crude sense of British exceptionalism. From 17th March, when the extremity of the situation became apparent, they began to institute a programme of large-scale interventions. The aim is to ensure that, once Covid-19 goes away, 'normality' can return. The few major banks that underpin our supply of food, shelter and leisure have been given scope to issue more credit. The gates to the welfare system have been opened slightly wider. Most evictions are temporarily suspended and landlords have been asked to be patient in collecting rent. After vital lobbying by trade unions, a degree of job security has been won for many.

It is still too early to assess the adequacy of this bailout programme but some problems are immediately apparent. Unsurprisingly, British banks are proving to be terrible vehicles for distributing financial assistance: shortly after introducing its scheme, the government had to intervene to prevent the banks from requiring borrowers to buy commercial products in order to access the emergency loans; and while nations such as Switzerland were quick to release emergency funds, many British employers are still struggling to access the cash.

From an employment rights perspective, the government's delay has already resulted in over a million lost jobs. Among other problems outlined by Haldane vice-president Lord John Hendy QC, the scheme still lacks robust incentives for employers to choose furlough over redundancy. For those out of work, many are still to receive Universal Credit. Renters need longer-term protections.



The lockdown is exacerbating class conflict and the racial and gendered oppressions upon which society is based. Police forces are embracing their new powers, with reports of heavy-handedness and unfairness. The cruelty of the European border regime is being thrown into even starker relief. The Monitoring Group has reported a steady increase in demand for support for victims of racial violence, as have domestic abuse organisations. This is recurring on a global scale, with the core imperialist states exploiting the crisis to subordinate the periphery and semi-periphery, and putting countless more lives at risk. Examples include the International Monetary Fund's denial of an emergency loan to Venezuela to support its public heath infrastructure, and the World Bank's forewarning that debtor countries face further 'structural reform'.

Covid-19 provides yet more evidence that our current system of production is lethal. To resist it and revolutionise life on this planet for the better, we need a holistic view of the situation. This edition of *Socialist Lawyer* is an attempt to carry on the brilliant work of Nick Bano as outgoing editor in helping us as students, practitioners and activists navigate the intersection of law, capitalism, and socialist struggle.

Picture: Jess Hurd / reportdigital.co.uk

HUMAN RIGHTS AND ACCESS TO JUSTICE DURING COVID-19

On 8th April Young Legal Aid Lawyers hosted a Zoom panel discussion on Human rights and access to justice during Covid-19, attended by nearly 200 people.

by Hannah Webb and Margo Munro

The panel discussed challenges posed by the crisis to those working in the legal sector and their clients and consisted of Steve Broach of 39 Essex Chambers, Bella Sankey of Detention Action, Jo Hynes of Public Law Project and Steven Galliver-Andrew of Garden Court Chambers and speaking of behalf of Legal Sector Workers United.

Steve Broach, who predominantly practices in disability discrimination law, described three instances where the threat of judicial review had successfully resulted in guidance being amended for the better. He emphasised the important role that social media played in these cases, connecting activists, clients and legal professionals, and enabling immediate responses to daily developments.

The first case concerned the National Institute for Health and Care Excellence (NICE) guidelines for accessing critical care in the context of Covid-19, which directs clinicians to triage patients according to a rough measure of their frailty, a concept initially introduced in relation to the care of elderly people. In its original form, people who are dependent on others, including disabled people, would be deprioritised and potentially denied intensive care. Thanks to the challenge, the guidance has been updated to highlight that an assessment of frailty 'should not be used in younger people, people with stable long-term disabilities (for example, cerebral palsy), learning disabilities or autism.'

The second challenge related to the Coronavirus Act itself. Schedule 17 of the Act allows the Secretary of State to make notices modifying and disapplying primary legislation. This includes the ability to suspend local authority duties under section 42 of the Children and Families Act for provisions relating to Special Educational Needs (SEN), which children are entitled to as of right. The first draft of the legislation strongly suggested that local authorities were already not required to provide support as of right but rather to make reasonable endeavours to do so,

'The Act has led local authorities to erroneously inform families that they are not entitled to support.'

despite no such notice having yet being given. Broach's letter before claim led to a clarification in the guidance, such that notice is required, but there are fears that damage has already been done and authorities are erroneously informing families that they are not entitled to support, despite no notice having yet been given.

The final challenge concerned how the Coronavirus Act's social distancing rules indirectly discriminated against parts of the population. Government guidance complementing the Act stated that people should leave the house only for essential activities or to take 'one form of exercise a day' were being interpreted by some police forces as meaning leaving the house for exercise only once a day, a requirement that would have a disproportionately adverse effect on people with certain conditions such as autism. Again, a letter before action quickly led the government to clarify the guidance which now states that people can exercise more than once a day if due to a significant health condition.

Bella Sankey of Detention Action – which provides support services for immigration detainees based in detention centres and prisons in or close to London as well as Morton Hall in Lincolnshire – described how the organisation is seeking to ensure adequate protection from the >>>

Pictures: Jess Hurd / reportdigital.co.uk

>>> Home Office for those in immigration detention. It is not sufficiently known that the Home Office and the private companies running Immigration Removal Centres (IRCs) do not provide soap or hand sanitiser directly to detainees – they must buy it themselves – and it is frequently unavailable. Nor do they provide cleaning services – detainees must clean the centres themselves, and cleaning products are similarly scarce. These unhygienic conditions exacerbate the already significant risk faced by those detained in close quarters, many with underlying health conditions, and any Covid-19 outbreak would spread fast, as flu breakouts frequently do.

Detention Action applied for interim relief against the Home Office, seeking to require the release of those in immigration detention for the duration of the coronavirus outbreak. They were unsuccessful owing to the 'very reasonable' provisions disclosed on the eve of the hearing and undertakings provided by the Home Office at the hearing that they would review the case of everybody in immigration detention with a view to making releases, prioritising those with Covid-19 co-morbidities. It is clear that the Home Office has been making many releases, and individual bail applications have almost all been successful in light of the pandemic.

However, hundreds of people remain in detention, including 22 of Detention Action's clients who have co-morbidities, despite there having been confirmed cases of Covid-19 in detention centres, including from a person who was brought into Brook House on 2nd April, well after lockdown was instigated, contrary to government guidance. Sankey asked if, in these circumstances, where removal is impossible, anyone's detention can be lawful. Continued collaboration between activists, campaigners, legal professionals and press will be crucial moving forward.

'Immigration detainees remain in detention at huge risk to their health and the health of others.'

Jo Hynes of Public Law Project discussed the recent increased use of video technology throughout the court system and the obstacles it generates for access to justice. Drawing on her research into remote conducting of immigration tribunals, she described problems ranging from teething problems, such as the practicalities of arranging video links, last minute adjournments, and poor-quality video, to much more significant problems exacerbating traditional barriers to justice, such as being detained, unrepresented, or needing an interpreter. These existing barriers are compounded by new barriers such as not having privacy or a quiet space at home, or fast enough internet, resulting in huge difficulties for remote hearings, particularly when one considers how sensitive the information discussed might be.

She concluded with recommendations: first, immigration tribunals lack clear published guidance for judges and parties to ensure effective participation in remote proceedings, as is present in other courts such as the Court of Protection and the Family Courts. Remote justice requires significant adaptations and changes, more simply than the use of a camera and screen. Second, it may be the case that some categories of hearings are completely unsuitable for remote hearings, such as those involving complex evidence gathering.

While criminal practitioners raised parallel concerns during the question and answer session at the end of the event, Steve Broach drew attention to the fact that remote hearings have opened up access to justice for disabled clients who might be otherwise unable to attend hearing in person.

Steven Galliver-Andrew, speaking on behalf of Legal Sector Workers United (LSWU), described its work to protect legal sector workers, especially during the Covid-19 crisis. First, it allows members to network and co-ordinate across professional divides to support each other, to build solidarity, and to fight exploitation. He highlighted how, shortly before lockdown, the union was active in helping workplaces organise to maintain reasonable working conditions and to protect their pay, particularly in response to some firms which tried to reduce salaries and make staff redundant.

The pupil barrister contingent of LSWU drafted a protocol which was soon accepted as standard practice by the profession, and the immigration workers were quick to publish a protocol calling for the release of all immigration detainees, focusing on the health and safety of those in immigration detention, but also for legal practitioners who would otherwise be forced to put themselves at risk attending immigration detention centres. Finally, he re-emphasised the concerns of other speakers that immigration detainees remained in detention at huge risk to their health and the health of others.

EXTREME P

The Government must act to prevent Covid-19 becoming a medieval form of extra punishment, or a death sentence.

The Ministry of Justice's strategy to address coronavirus in prisons comprises a 'mixed plan of release, extra accommodation and staffing'. However, analysis of the proposed measures indicates that they will be fatally insufficient.

The reality of the overuse of prison for petty, persistent and non-violent crime is often invisible in the public arena. Of those sent to prison in 2018, 69 per cent had committed a non-violent offence and 46 per cent were sentenced to serve six months or less. The thinktank Reform has proposed suspending sentences of six months or less.

A stark juxtaposition exists between the release of prisoners and 'keeping criminals off our streets', a central tenet of the Conservative election manifesto. Measures to address Covid-19 in prisons through releasing prisoners are therefore minimal. The Government will likely rely heavily on plans for the more socially palatable but untested and inadequate options of extra accommodation and staffing.

Prisons and Covid-19

The Chair of the Justice Committee has described prisons as 'a potential hotbed for viral transmission', stating that 'they are overcrowded, understaffed and often dirty'. By their very nature, it is impossible to enforce social distancing in prisons. In February, 71 per cent of prisoners were living in prisons considered 'crowded'. The wary two-metre shuffle between bystanders on the street is a luxury of which many prisoners are unaware.

UNISHMENT FOR UK PRISONERS

by Grace Cowell

In March the organisation Detention Action launched a judicial review relating to the safeguarding from Covid-19 of those held in UK Immigration Removal Centres. The legal challenge was supported by expert evidence from Professor Coker, which is particularly relevant to prison conditions:

'The experience of Covid-19 on cruise ships suggests that a scenario where 60 per cent of detainees become infected is plausible and credible […] Many of the elements that facilitate spread on cruise ships which have had transmission of Covid-19, such as poor ventilation, challenging sanitation conditions, limited space and passengers being confined to their cabins for lengthy periods are the same as exist in immigration detention centres.'

In the week commencing 13th April there were 82,456 prisoners in England and Wales. On 14th April BBC News reported that half of prisons in England and Wales have confirmed cases of Covid-19, with 13 suspected Covid-19 related deaths. The Ministry of Justice have confirmed 207 prisoners in 57 prisons have tested positive.

Measures to address Covid-19 in prisons

On 31st March the Ministry of Justice announced that pregnant women in custody and prisoners in mother and baby units would be temporarily released from prison. The procedure for releasing such prisoners involves a risk assessment. By 14th April, 14 prisoners who fall within these categories have been released.

On 4th April the Ministry of Justice stated that prisoners serving sentences for certain offences, who are within two months of their release date, would be temporarily released from prison. Such prisoners would also be risk-assessed. Official expectations were that up to 4,000 prisoners will be released. In reality, significantly fewer are likely to be eligible due to strict guidelines and the risk assessment. The Prison Governors Association has therefore expressed reservations, suggesting the decisions taken have not been 'brave' enough to combat the issue of Covid-19 in prisons.

Justice officials are evidently keenly aware of public concern about the early release of prisoners, contextualising the decision as a measure to protect the NHS, as opposed to vulnerable prisoners. Only those who do not pose a risk of harm to the public will be released on temporary licence: prisoners serving sentences for violent and sexual offences, as well as those of security concern are not considered suitable for early release. Additionally, prisoners will not be released until suitable accommodation has been identified and verified. Licence conditions include a requirement to stay at home and, where appropriate, wear an electronic tag. Prisoners can be immediately recalled for breaching licence conditions or committing further offences.

Staffing, extra accommodation and alternative options

The Ministry of Justice has written to 9,000 former prison officers who have left or retired within the last five years to offer them temporary contracts. Additionally, where appropriate, staff are to be redeployed from headquarters to operational roles. Figures on the effectiveness of this tactic are not available.

Plans to expand the prison estate have also been announced. On 9th April work began on the installation of 500 temporary cells within the confines of six priority jails, which will house lower risk-assessed category C and D prisoners. After this the intention is to expand the project to additional prisons.

Conclusion

The flaws in the government's response and the general inertia around prisons and Covid-19 is due to a political tension between necessary social policies and a conservative reading of law and order. Prisoners should not become victims of this friction, serving sentences in even stricter conditions than usual.

In accordance with the statistics on the number of people serving sentences for non-violent and petty crimes, the criteria for those to be considered for release should be widened. Temporary release should be considered alongside early release and the imposition of sentences under six months should be suspended. Without swift action, sentences will continue to entail severe costs to the physical and mental health of prisoners, or the risk of death.

Much needed surrogacy reform takes shape

In January 2019, it became legal for individuals in the UK to apply for parental orders after having a baby via a surrogate, without being in a long term and stable relationship.

While this is welcome, UK law regulating surrogacy remains full of kinks, particularly where intersecting with the law of other states in international surrogacy arrangements. In June 2019, the Law Commission published a Consultation Paper discussing the current law and potential changes, which is due to lead to recommendations on legislative change and the publication of a Draft Bill in 2021. The most urgent areas for reform found by the consultation were the attribution of legal parenthood, the lack of clarity in the law on payments, and the regulation of international surrogacy arrangements. These are all issues deeply concerned with exploitation, commodification, and choice.

As regards legal parenthood, in England and Wales the law states that it is always the person who carries and gives birth to the baby who is its legal mother. This is true even where the carrier is a surrogate and the ovum, the female gamete, has been donated. As such, a surrogate can give birth to a baby which they do not intend to keep and are not genetically related to, yet still be automatically granted parental responsibility for that child. The intended parent, even if genetically related to the child, is left with no automatic parental rights or responsibilities, but must apply for a parental order through the courts.

In contrast, an intended parent who donates sperm, the male gamete, can often automatically be registered as the legal parent, without any court process. This is subject to certain exceptions such as where the surrogate is married or the donation was made anonymously; however, in many situations intended parents whose contribution to the creation of a child (namely the donation of a gamete) has been identical are left in very different legal positions. Such gendered inequality is hardly defensible.

'Like debates over sex work, commercial surrogacy has been defended and criticised from feminist angles.'

Moreover, discrepancies in the law on legal parenthood between jurisdictions have led to concerns that children may be born stateless where conceived via international surrogacy arrangements. This problem arises where the child's legal parentage differs between the surrogate's home country, and the intended parents' home country. For example, there have been several notable cases of child statelessness in English-Ukrainian surrogacy arrangements. Under Ukrainian law, the biological parents may sometimes be the legal parents of the child, meaning that the English intended parents are recognised as the child's legal parents. By contrast, under English law, the Ukrainian surrogate and her husband are the child's legal parents. As such, the child ends up, legally speaking, with both too many parents and none at all. In this situation, neither the Ukraine, nor the UK are able to recognise the child as a citizen, and the child is therefore left stateless.

These situations are normally resolved by the English sperm donor proving his biological relationship with the child, in order that he can be granted parental responsibility and bring the child to the UK. However, this process can be extremely protracted, with some cases taking as long as two years before the child can be removed from the Ukraine. Furthermore, the common fix of using the father's genetic link to establish parental responsibility is not a viable solution for couples or individuals who have used anonymous sperm donations.

The Law Commission Reform Paper makes a provisional recommendation that the intended parent be the legal parent. This is to be welcomed wholeheartedly – it would recognise the autonomy of the surrogate in entering into a non-normative parental arrangement, as well as that of the intended parents.

Turning to the law on payments, intended parents in the UK may pay surrogates reasonable expenses only. Commercial surrogacy is illegal, largely owing to fears surrounding the commodification of children and of women's bodies. Like debates over sex work, it has been both defended and criticised from feminist angles. Some view the commodification of women's bodies which commercial surrogacy entails as inherently exploitative, turning human reproduction into production like any other. Others argue that such criticism of surrogacy delegitimises the surrogate's ability to make a choice and to use her body as she sees fit.

Jeremy Corbyn speaking at Trafalgar Square,

Free market capitalism over women's bodies is indeed an outcome to be avoided, as shown by the example of the surrogacy market in the US. Here, the cost of a commercial surrogacy can vary according to attributes of the surrogate, including race, class, age, profession, and number of previous children.

November

13: The Data Watchdog criticised the Department of Education for sharing children's addresses with immigration authorities, in response to a complaint lodged by Against Borders for Children in December 2018.

13: Supreme Court ruled that secondary legislation, specifically the Bedroom Tax (BT), could be disregarded by a court or tribunal, after a case brought by a disabled man who needed his second bedroom for medical equipment. The ECtHR ruled on 24th October that the BT discriminated unlawfully against women at risk of domestic abuse.

'In the old days a decent fellow would have his butler take him out and shoot him'

A Tory MP on Jacob Rees-Mogg's Grenfell fire remarks

19: The ECtHR ruled against Turkey in finding that a prison sentence of 10 months for a man involved in a demonstration at a funeral for four PKK members, and a two-year suspended sentence for two people for chanting pro-Kurdish slogans, were unjustified violations of article 10 rights.

20: The UN Special Coordinator for the Middle East Peace Process told the Security Council that Israeli settlement activities in the Gaza strip were a 'flagrant violation' of international law.

Pictures: Jess Hurd / reportdigital.co.uk

on 11th January, after the assassination of Iranian general Qassem Soleimani by US forces. Organised by Stop the War.

For example, white 'army wives' are often considered safe and desirable, and can therefore be more expensive than other surrogates. In cheaper international surrogacy destinations lines of exploitation are starker.

The Law Commission Consultation Report highlights concern over economic exploitation of surrogates in Georgia and Ukraine who receive around a third of the payment of those in the US ($10,000 as opposed to $30,000), while simultaneously noting the fact that the large lump sum exposes surrogates to other forms of exploitation. In Ukraine, a disproportionate number of surrogates are young women displaced from occupied territories, and surrogates reportedly do not receive payment in cases of miscarriage. Meanwhile in Georgia, surrogates may be regarded as 'unmarriageable' and cast out by their communities. Gross mistreatment of surrogates in India, Thailand and Vietnam has seen surrogates receive a small proportion of the payment which is funnelled to agencies, while living out their pregnancies in hostels, with restricted access to their families and following strict dietary regimes.

However, the potential for exploitation where commercial surrogacy is criminalised is arguably greater, and has been documented in Cambodia where agencies have kept surrogates in overcrowded conditions only to be exposed through raids, after which both agents and surrogates face criminal charges.

In the UK, the criminalisation of surrogates and/or intended parents was expressly rejected by past Law Commissions. Instead, the ban on commercial surrogacy is supposedly enforced by the courts' power to withhold a parental order in favour of the intended parent where it is determined that excessive expenses have been paid by the intended parent to the surrogate. However, this power has never been exercised. It is manifestly obvious why – in making a parental order, the court's primary consideration is the welfare of the child. To sacrifice a child's future welfare to make an example of their intended parents who overpaid the surrogate would be absurd. This is particularly the case where the surrogate does not want to keep the child herself, and the likely alternative will be placing the child in the care system. Moreover, the toothless nature of these enforcement provisions effectively allows intended parents to pursue explicit commercial surrogacy arrangements abroad – the most common destinations being the US, Georgia and Ukraine. Courts routinely authorise payments in excess of expenses in order to make the parental order in such cases. Though abhorring commercial surrogacy in principle, in practice the law has reached a position where some women's bodies are to be 'protected', others 'commodified'.

The Law Commission Consultation Paper makes a provisional proposal for reform enabling legal parenthood granted overseas to be recognised in the UK only after an appraisal of the law and practice of surrogacy in each country, with the stated aim of encouraging UK intended parents to use countries where there is a level of confidence in the protection afforded to surrogates. While this would be welcome, it would not address the inconsistency highlighted above. Carefully licensed, relatively low cost, commercial surrogacy in the UK might, and would simultaneously recognise the right of surrogates to make choices concerning their bodies. The courts arguably enforce such a position already by allowing reasonable expenses far beyond actual expenses. The law should reflect this position.

Emma Colebatch and Margo Munro Kerr

December

22: The Dutch Secretary of State announced an end to legal aid in the Netherlands for asylum seekers at first instance.
27: German courts warned that Turkey had confiscated the personal details of hundreds of asylum seekers after arresting a Turkish lawyer working for the German embassy in Ankara.

29: Liberty published research finding that police officers were using mobile fingerprint scanners to conduct on-the-spot checks against immigration databases.

3: Supreme Court ruled that the detention of asylum seekers pending deportation was unlawful, but the Inner House of the Court of Session ruled that the private company contracted for asylum accommodation in Scotland were acting lawfully when changing the locks for those whose applications failed.

3: Christie Elan-Cane brought a challenge to the Court of Appeal against the Home Office's decision not to issue a passport with a neutral 'X' gender marker.

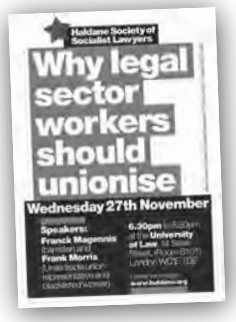
5: The Court of Appeal cleared the convictions of the 'Oval Four', four black men who were convicted of theft solely on false evidence given by police officers in 1972, after being beaten up in police custody.

Picture: Jess Hurd / reportdigital.co.uk

Workers of the legal sector, unite!

In our December Haldane Society panel discussion, Franck Magennis, head of legal at the United Voices of the World (UVW), and Fatima and Benito, two UVW activists working as cleaners at the Ministry of Justice (MoJ), put forward the case for a fully unionised legal sector.

The legal sector is riven with cleavages: between equity partners and junior lawyers who sell their labour; between self-employed barristers and their paid clerks; between full-time administrative staff and outsourced cleaners and security guards. While these groups may have distinct – and sometimes conflicting interests – they are all to a certain extent negatively affected by the government austerity programme.



Different segments of the legal sector have put up varying levels of resistance: in 2019, the members of the Criminal Bar Association voted 95% in favour of a walkout (the decision was later overturned when 60% voted in favour of suspending the action after the government promised to raise prosecution fees). At the MoJ, outsourced cleaners organised by UVW have been running continuous strikes and direct actions to win their demand of a living wage of £10.55 an hour, after gaining a small pay increase above the minimum wage using similar tactics in 2018.

But, as panelists and audience alike emphasised, legal sector workers cannot realise the full power of their labour until they unionise together and act concertedly. The cleaners at UVW, for instance, called for wider solidarity from other legal sector workers: during their most recent picket and occupation at the MoJ, UVW activists report that not a single civil servant out of the 3,500 who worked in the building joined the picket.

The cleaners at the MoJ have led the way with their militant strike actions, but the power to pressure the government into improving pay and conditions is most effectively exercised by the sector as a whole. Imagine, for instance, if all workers in the legal sector, from barristers to security guards, shut down the courts for one day? Such an action would require an organising nexus for the various strands of the legal sector, and this is what UVW's legal sector workers' branch, the Legal Sector Workers United (LSWU), aims to be.

The branch exists not just to challenge the monopsony of the Legal Aid Agency, but to deal with inequalities within the sector. Franck emphasises that these divisions are rarely openly acknowledged and have not been well theorised – but unionising workers can help create detailed theoretical maps of the sector, which can be married to effective practice.

In a tentative theoretical sketch, Franck argued that the legal sector, and legal aid in particular, plays a mediating role between bosses and workers, where use of the employment tribunal and judicial review has become the primary method of conflict management. This system grew out of the Thatcherite consensus to individualise workers' struggles against bosses, undermining the power of trade unions.

This mediating function of the legal sector is based upon a liberal tradition of social contract theory rather than a Marxist materialist understanding of societal relations. This is reflected in the way legal aid has evolved, primarily used to mediate conflicts between tenants and landlords, migrant workers and the Home Office, and working class people who commit crimes and the CPS.

While doctors who were hitherto self-employed became

December

19: The £1,012 fee for children to register British citizenship (a process costing the Home Office an estimated £372) was found unlawful in the High Court.

19: Central London Employment Tribunal found that belief that 'sex is biologically immutable' was not a philosophical belief protected under the Equalities Act, while on 3rd January 2020 Norwich Employment Tribunal found that 'ethical veganism' was.

19: The government announced plans to end so-called 'no fault' evictions under the Housing Act 1988 s. 21 via the Renters' Reform Bill. The National Landlords Association described the proposals as 'ruinous and likely to lead to an exodus of responsible landlords from the private rented sector'.

'Independent Office for Police Corruption'
The Daily Mail.
Surely they meant the 'Independent Office for Police *Conduct*'?

20: The Supreme Court of the Netherlands ruled that the Dutch government must reduce carbon emissions by at least 25 per cent compared with 1990 levels by the end of 2020 in accordance with its duty to protect its citizens' fundamental human rights.

proletarianised with the introduction of the NHS, legal aid lawyers continued to be self-employed or became partners in private firms which entered into contracts with the Legal Aid Agency.

Indeed, Franck argued that the myth of the fat cat legal aid lawyer is not in fact a myth – and that as lawyers approach the position of equity partner, they become more *petit bourgeois* and begin to derive more benefit from a system of ownership of the means of production, even if they do not necessarily own that system.

Paralegals, law students, and pupils are often expected to work for free or on minimum wages, and can be exposed to sexual harassment and exploitative treatment, while their senior counterparts earns six digit salaries. Often this hierarchy is countenanced because junior workers are willing to undergo short term poor treatment as a necessary step on the way to a more lucrative post with better pay and conditions.

The role of UVW – and the LSWU – is to change this status quo and allow activists to envision a legal sector where such great differentials between wages and conditions do not have to exist.

Through building links of solidarity across the sector between different categories of worker, and across different levels of seniority, industrial action has a role to play in the political economy of the sector, challenging the MoJ and breaking down the internal inequalities within private firms and chambers.

Seema Syeda

Survey reveals shockingly low levels of pay and rising tensions as junior legal workers organise

A survey we at LSWU created reveals that swathes of junior legal workers are earning less than the minimum wage. A culture of fear, bullying, intense workloads and excessive working hours is leading junior workers to consider taking industrial action in a sector that has traditionally been hostile territory for trade union activity.

One paralegal said that the reason that they had not asked for a pay rise was because they were 'too scared'. Another commented, 'my employer will point to performance and the ridiculously high targets and will not take into account quality of work or extra hours on evenings and weekends.'

Junior workers cited poor training, unrealistic targets, excessive workloads, staggeringly long working hours, gender pay gaps and unchecked bullying by management as key issues within their workplace. As one survey respondent explained: 'We work essentially as solicitors, but are unqualified paralegals. We have high responsibility and stress but without the job title or the salary.'

The survey of 267 legal sector workers between November and December last year was designed by LSWU with Organise, a workplace campaigning platform. Three out of four of the workers who responded are funded in whole or in part by legal aid. National spending on legal aid has decreased by over a third since government cuts implemented under the Legal Aid, Sentencing and Punishment of Offenders Act 2012. A number of junior workers attributed their low wages to the lack of funding for legal aid work.

Zachary Whyte, a trainee solicitor, co-Chair of LSWU and interviewed further on page 12, said, 'This survey confirms that junior legal workers doing publicly-funded work are being exploited. Who is going to put a stop to this? Not the Solicitors Regulation Authority, which abolished the mandatory minimum salary for trainees. Not the government, which ruthlessly cut legal aid funding, without a thought for how this would affect junior workers' share of the pie. This is why paralegal and trainee members of LSWU are organising together, to demand security and respect at work, and a wage we can actually live on.'

Grace Loncraine

- **30% of paralegals who responded were earning less than the Real Living Wage, currently set at £10.75ph in London and £9.30ph across the rest of the UK. This is independently calculated by experts as the bare minimum level of pay needed in order to have an acceptable standard of living;**
- **46% of respondent trainee solicitors were earning less than the Law Society recommended minimum salary;**
- **When the annual salaries of trainees and paralegals were divided by the number of actual hours that they worked, one in four were earning less than the hourly minimum wage;**
- **66% of allL survey respondents said they would consider taking industrial action to increase pay in the sector.**

January

4: Government refuses to release 700 files related to an inquiry into the wrongful convictions of the Guildford Four and the Maguire Seven between 1989 and 1994. Some may not be opened until the 2090s.

7: Bail for Immigration Detainees published data obtained via FOI requests showing that in the first six months of 2019, only two people were granted bail at an automatic bail hearing out of a total of 162 referrals, while 30 per cent of applications for judicial bail were granted bail overall.

8: The High Court refused to extend safeguards in place in IRCs under the Adults at Risk policy to immigration detainees held in prisons.

10: Extinction Rebellion were added to the list of so-called extremist ideologies to be reported to the authorities under 'Prevent'.

12: France offered to take in 400 asylum seekers from Greece. According to UNHCR data, 70,000 people arrived in Greece over the course of 2019, and 40,000 are held in island refugee camps with a capacity of 5,400.

'Withdrawing labour will be key to achieving our aims'

Shortly before going to press, we spoke to the co-founder of LSWU, **Zachary Whyte**, for an up-to date picture on how LSWU is developing

■ **What has LSWU's rate of growth been and what parts of the legal sector do you represent?**
We have an escalating rate of growth, with dozens of new members joining each week. Importantly, LSWU has almost doubled in size since the outbreak of Covid-19, and now represents hundreds of workers from all parts of the legal sector. We have sub-groups encompassing all facets of the sector, from solicitors and barristers at every stage of their career, to intermediaries and members of the sector's infrastructure itself, such as court staff and workers within the Law Society.

We're still at an early stage of development, but the union is already proving to be a very effective vehicle for driving change within individual workplaces and within these professional sub-sectors. We have seen immigration, intermediary workers, criminal justice workers, paralegals, trainees, pupils and many more mobilise, organise and collectively draw up demands to campaign on.

■ **How has being a branch of UVW shaped LSWU?**
In stark contrast to the legal sector, UVW is non-hierarchical. It does not dictate policy or to its members and instead provides guidance and support from its experience and successes in other industries. UVW have secured victories organising cleaners against the LSE, the *Daily Mail*, Top Shop, Sotheby's, Harrods, and the list goes on! They are currently battling the Ministry of Justice on behalf of the contracted cleaners working at their Petty France HQ. UVW's track record is truly incredible.

One of the main reasons we chose to affiliate with UVW is their willingness to take strike action, as we firmly believe withdrawing labour is the source of industrial power and that it will be key to achieving our aims: improving working conditions within the sector and influencing wider national policy, such as our fight to restore the legal aid budget.

Besides the legal sector, UVW represents cleaners and workers in the charity, cultural, architectural, and sex work sectors, all of whom are fighting against low pay, unpaid work, overwork and precarity. We are learning a lot from these fellow members and their fearless approach to addressing industrial relations.

■ **How has the union responded to Covid-19?**
Bearing in mind that the official lockdown only began on 17th March, we issued a statement on 12th March calling on employers to recognise that the government response to the coronavirus was entirely inadequate, that we faced a major threat to life and that working practices had to change. The damage was already severe; however any positive action would save lives further down the line. Therefore, workers should be sent home and be paid contractual sick pay.

Ours was an independent, objective and critical view of the government's response to the pandemic and we have since been totally vindicated. We followed up this initial response with an open letter, calling for working from home on full pay and for transparent Covid-19 policies. This received a good response online and was sent directly to many employers resulting in policy change.

Our various sub-groups are having an important influence on their respective professions' response to the crisis. One example is the sub-group for pupil barristers who produced a Covid-19 Pupil Protocol, making demands on the Inns of Courts and Chambers which has been subsequently adopted by the Criminal Bar Association.

As the economic effects of the crisis develop our demands are shifting and we have moved from fights over work from home policies (with some workplaces still refusing to implement this) to challenging employer decisions to unilaterally cut pay, furlough and make their staff redundant. As well as representing our members in disciplinaries, grievances and in employment tribunals, negotiating these new Covid-19 challenges has become our day-to-day casework now.

These issues are often a matter for organising, rather than individual casework, and we encourage workers to join the union, get advice, reach out to their colleagues and swell their ranks within their own workplace to more forcefully respond to the decisions of management with our 100 percent backing from LSWU. Strength in numbers always!

● Zac discusses the above developments and more from a radical perspective in a new podcast with Franck Magennis entitled 'The Appreciation Society'. Episodes can be found via their eponymous twitter page.

LSWU
UVW

Legal Sector Workers United (LSWU) is a Union for all workers in the legal sector. Created in 2019, it is part of United Voices of the World (UVW) and its membership includes paralegals, cleaners, barristers, trainees, solicitors, intermediaries, students, admin staff, and judges.

■ uvwunion.org.uk

January

17: Italian Supreme Court of Session rejected an appeal by the public prosecutor against the decision of a lower court to overturn Carola Rackerte's sentence and house arrest, after she was prosecuted for her part in rescuing migrants at sea.

21: The Court of Appeal upheld the 'enshrined freedom' of Gypsy and Traveller Communities to move from one place to another, and ruled that an injunction to prevent camping on public land would breach that right, dismissing an appeal brought by Bromley Borough Council.

'Instead of seeing a tragedy Boris Johnson saw an opportunity'
Dave Merritt, whose son died in the London Bridge attack

21: Government announced that, in the wake of the murder of Saskia Jones and Jack Merritt by a man who was released on licence from prison, automatic early release from prison would be scrapped for terror offenders, and a minimum jail term of 14 years would be introduced for serious crimes.

23: Three anti-fracking protesters found guilty of breaching a protest ban after a lock-on protest at a shale gas site in July 2018 lost their bid to have their suspended sentences quashed in the Court of Appeal and will have to pay more than £70,000 in legal fees.

Pictures: Jess Hurd / reportdigital.co.uk

Protesting against the third runway at Heathrow airport in 2008. The campaign united environmentalists and unions.

Can we get climate justice in the courts?

In February, climate campaigners rejoiced after a Court of Appeal judgement blocked the government decision to allow the construction of a third runway at Heathrow airport. 'Heathrow third runway ruled illegal over climate change,' proclaimed a *Guardian* headline.

Hailing it as an 'historic legal battle', Friends of the Earth, one of the parties bringing the action, stated in a press release, 'This stops the climate wrecking plan dead in its tracks and holds government to account for acting in complete contradiction of the climate emergency at a time when we need urgent action.'

Another of the applicants behind the case is an organisation called Plan B, a charitable trust established to 'support strategic legal action against climate change.' Its mission statement continues, 'By ensuring those responsible for greenhouse gas emissions bear the costs of loss and damage, we will increase the incentives for investment in clean technologies, harnessing market forces towards a better future for us all.' Tim Crosland, Plan B's barrister director and trustee, represented Plan B in the legal challenge. Unsurprisingly, the organisation hailed the result of the Heathrow case as 'hugely influential across the UK and around the world,' stating that 'the bell is tolling on the carbon economy'.

But the headline news is not quite as rosy as it seems. The building of the runway itself was not declared illegal. It was not even declared incompatible with the Paris Climate Agreement, an analysis implied by many of the mainstream headlines.

All the court found was that the government was bound by law to take the Paris Climate Change Agreement into account when it produced the 'Airports National Policy Statement' favouring the third runway. The Secretary of State for Transport had been wrongly advised that he did not need to consider the Paris Agreement at all when producing the statement, and accordingly, he did not do so.

As the court stated forcefully in the text of its judgement, 'we would emphasize that it does not follow from this that the Secretary of State was obliged to act in accordance with the Paris Agreement or to reach any particular outcome. The only legal obligation, in our view, was to take the Paris Agreement into account when arriving at his decision.'

This is not to argue that such legal challenges are futile. The ruling does expose the government's reckless dismissal of its commitments on climate change, at a time when climate activism and awareness are on the rise. Even if it has not prevented the building of the third runway in law, it may have prevented it in fact – the government may choose to abandon the project, rather than review its policy formation process accordingly and plough on.

But there is a danger in focusing too hard on legal routes to challenge the actions of the government, especially when these challenges come as a last resort against the decisions of an overmighty executive.

Winning a legal ruling may save an abstract constitutional principle, but it does little to change the mood of the people. In fact, by focusing slavishly on the principle of parliamentary sovereignty, such rulings fail to engage with the relevant political arguments necessary to shift the mood of public opinion, let alone reflect it.

As the *Miller I* and *Miller II* litigation showed, court battles that were overtly about parliamentary sovereignty might have bought more time for the appellants to work towards their underlying goal of stopping Brexit, but ultimately, the failure of their political arguments to penetrate deeply into the Leave seats erased any such gains. Indeed, the >>>

'We declare that anything that's been conceived in satanic wombs, that it will miscarry.'
So says Paula White, 'spiritual adviser' to Donald Trump, President of the United States

23: The International Court of Justice ordered provisional measures against Myanmar in a case brought by the Republic of Gambia alleging that the atrocities committed against the Rohingya people during 'clearance operations' since October 2016 violated the Genocide Convention.

23: Business as usual for the arms trade as the Aerospace, Defence and Security Group annual gala dinner went ahead amid protests from anti-arms groups. The trade in death has been worth £5bn to UK companies since the war in Yemen began.

>>> ensuing 'enemies of the people' rhetoric emanating from the far-right organs of the media set any favourable image of liberal bourgeois democracy further back.

Similarly, it would be complacent to interpret these successful climate-related legal challenges as a sign of victory. Johnson very much follows the trend of the ethno-nationalist, climate-denying regimes of Trump, Bolsonaro, and Abbott. While he hasn't denied the crisis outright (yet), his absence at the Channel 4 climate debate last year revealed his dismissive attitude.

His subsequent success at the ballot box rings alarm bells for the prospects of the climate justice movement. Real legal change is won off the back of political success; something that litigious market-orientated liberals seem to have forgotten.

Without a deep-rooted, geographically broad activist base organised in trade unions and local communities winning people over to a class analysis of the climate crisis, a clear understanding of capitalism as its cause, and a detailed plan for a just transition, legal challenges alone will not cut it.

That does not mean the left should abandon legal challenges. This challenge gave Plan B a platform to propagate their market-oriented solution to climate change. Socialist organisations should take their place. They should be leading climate battles on the legal front; but they should do so with an express consciousness of the limits of legal challenge, and use the media attention to expose the capitalist system that is the root cause of the climate crisis.

Clive Lewis, one of the Labour MPs and members of the Socialist Campaign Group who brought the litigation against the Metropolitan Police's use of Section 14 to ban XR's 'international rebellion' is heading in the right direction.

He has kept his foot in the grassroots protest movement, regularly attending XR's protests, has agitated in parliament, but also supported legal actions. Momentum, with its campaign last year targeting Barclays banks through a series of UK-wide local occupations, could also play a similar role to Plan B – but inject a more anti-capitalist flavour to the proceedings. Trade unions should also support the challenges.

In the Labour leadership contest, Keir Starmer emphasised legal and international agreements as the route to tackling the climate crisis. Rebecca Long Bailey has championed the Green New Deal, which, when it made its way into the 2019 Labour manifesto backed by trade union branches and local constituencies, emphasised a just transition at home. This came with a strong commitment from John McDonnell that a Labour government would transfer funding and technology to support just transition in the global south, acknowledging this duty in the context of Britain's colonial history.

These approaches need not work against each other. While legal challenges can be a useful platform, socialist lawyers must focus on pairing them with a committed, campaigning, grassroots movement that pushes for a just transition and an anti-capitalist analysis of the climate crisis.

Seema Syeda

Picture: Jess Hurd / reportdigital.co.uk

In January protestors marched to the Cypriot Embassy in London in support of a British teenage woman. She was convicted in Cyprus of making a false rape allegation after she withdrew her claim against 12 Israeli men. Another example of how women are treated like criminals rather than victims when they go to the police with rape and sexual assault allegations.

Jailed Weinstein 'took it like a man'

Harvey Weinstein's 'household name', from international media mogul to the villain of the #MeToo movement, has completed its descension into the depths of infamy.

On 24th February a jury of seven men and five women in New York found Weinstein guilty on two counts: third-degree rape and criminal sex act in the first degree for forcing oral sex.

The jury returned not guilty verdicts on one count of first-degree rape and two counts of predatory sexual assault. James Burke presided over the trial and sentenced Weinstein to 23 years' imprisonment. Weinstein plans on appealing. On this topic his lawyer, Donna Rotunno, took the

January

'I think she is a fantastic Home Secretary.'
Boris Johnson defends Priti Patel against accusations of bullying.

24: The Metropolitan Police announced it would begin the rollout of live facial recognition technology at 'locations where intelligence suggests we are most likely to locate serious offenders' across London.

£41.5bn
UK government's military spending.
More than twice as much money as it spends on preventing climate and ecological breakdown.

28: The International Organization for Migration reported that at least 810 migrants died en route across the Americas in 2019, making it the deadliest year since records began to be kept in 2013.

opportunity to reaffirm the sexist tenor of the overall defence case, stating 'he took it like a man'.

The verdict highlights a societal departure from the 'real rape' stereotype, a bias which has previously dictated what does and does not constitute rape. The prosecutors chose two traditionally 'risky' main complainants. They were women who, after the attacks, had close and at times sexual contact with Weinstein. Conventionally, prosecutors have been reluctant to bring such cases. The case is therefore an example of social progress over ideas of what behaviour is considered 'normal' for a rape complainant.

Professor Loftus from the University of California, Irvine, provided expert testimony designed to debunk rape myths. Specifically, she gave evidence regarding the effect of trauma on memory and the relationship between strong emotions, memory and accuracy. Such evidence is not admissible in England and Wales, where discretionary judicial directions are the only means of mitigating discriminatory, sexist and stereotyped beliefs about rape, survivors and perpetrators. There is mounting pressure on the UK government to implement further means of educating jurors to address this.

The conduct of the defence and its reception by the jury also indicates social development. Weinstein's case was that all of the allegations related to consensual encounters. Reports of the trial document that the defence strategy appeared to be largely based on undermining the credibility of the complainants. Rotunno's cross-examination even induced a panic attack in one of the two main complainants. Weinstein did not give evidence at the trial. His defence team cited the weakness of the prosecution's case as the basis for the decision.

Interwoven throughout the defence was an appeal to juror subscription to rape myths. The jury's rejection of this suggests that such methods will not be as effective in future, and sparks hope for the more ethical conduct of trials by some defence lawyers. In turn, this may induce greater confidence in the ability of the criminal courts to deliver justice and lead to more people coming forward.

Weinstein also faces charges of rape and sexual assault in Los Angeles. He and his former company, which allegedly enabled and concealed his behaviour, face multiple civil proceedings. To date, 105 women have accused him of sexual misconduct.

As we went to press it was reported that Weinstein had tested positive for coronavirus and had been moved into isolation at the Wende Correctional Facility, near Buffalo.

Grace Cowell

Obituary: Ted Knight

'A great working class leader'

Bill Bowring writes:

'Red' Ted Knight died on 30th March 2020, of a heart attack, at the age of 86. Ted was best known as the fiery Leader of the Labour majority on Lambeth Council from 1978 to 1986, when he and the majority of councillors (including me) took a stand against 'rate-capping' and Thatcher's cuts (see picture above, me on the left, Ted fourth from left). We were found guilty of 'wilful misconduct' for refusing to set a rate, and on 2nd April 1986 we were surcharged £106,000 and banned from holding public office for five years. We appealed to the Divisional Court, which described us as the 'Pinnacle of political perversity' for that evening's headline in the *Evening Standard*. The political context was the defeat of the miners, and the abolition of the Greater London Council (GLC).

Paul Heron recently wrote in *SL*83 about a similar stand by Liverpool City Councillors, who were also surcharged and >>>

'The big question is, who will be here to hold these people to account while they still control Britain's waters, but the UK has no representation?' Brexit Party MEP June Mummery, Brussels, 31st January – 'Brexit Day'. Huh?

February

4: Revealed that more than 400 local authorities have allowed a third-party company to track individuals who visit their sites, such as searches for financial help or support for substance abuse. Examples include Ealing, Enfield and Sheffield.

5: Grenfell Tower Inquiry delayed after corporate witnesses threaten not to give evidence unless assured anything they will say will not be used in prosecutions against them.

6: The ECtHR's Grand Chamber handed down a shocking decision in the case of *ND and NT v Spain*, effectively condoning push-backs and collective expulsion at Europe's borders in response to 'unlawful' entry.

>>> banned from office. Liverpool and Lambeth stood alone, after other councils such as the GLC, Sheffield and Manchester caved in.

Ted continued his intense activity in the Labour Party and his trade union and as recently as this February chaired a huge meeting in Croydon addressed by John McDonnell. John and Paul Feldman have an excellent obituary, with an overview of Ted's life, at https://www.john-mcdonnell.net/news/2020/03/30/a-giant-of-our-movement/.

I was called to the Bar in November 1974 and from 1976 to 1978 I was an adviser at Brixton Advice Centre in Railton Road and a squatters' representative instructed by the Lambeth Community Law Centre, of which I became Chair. My advice and law centre colleagues encouraged me to stand for the Council in 1978, and I was elected for Herne Hill ward, which includes Railton Road, the epicentre of the Brixton Riots of 1981 and 1985. At that time I was at daggers drawn with Ted Knight, whom I had not previously met. Ted was a municipal socialist of the old school. He hated squatters!

Having won the Malvinas (Falklands) war, Thatcher launched a vicious attack on trade unions and local government – as she had promised to do when she became Prime Minister.

Ted rallied the councillors. He was a great working class leader. Our inspiration was the Poplar Rates Revolt led by George Lansbury in 1921: he and the Poplar councillors were sent to prison. We marched to the High Court for our appeal under a replica of the Poplar Councillors' banner.

Zooming in on activities around the world

Due to Covid-19, activities with like-minded contacts around the world are for the time being onscreen, online!

Before that, the International Association of Democratic Lawyers (IADL) held a Bureau Meeting on 8th March.

IADL President Jeanne Mirer had just had a call with Max Boqwana (from NADEL, the South African Democratic Lawyers) to discuss projected dates for the Congress which are 11th (or 12th) to 15th November. IADL had been invited to the NADEL AGM in mid-April in Port Elizabeth and the IADL Council is scheduled to take place in Havana on 22nd to 23rd June.

The new issue of the *International Review of Contemporary Law* (inset) was released on the day of the meeting (International Women's Day) and is available online: https://iadllaw.org/2020/03/new-issue-of-international-review-of-contemporary-law-released-international-womens-day-and-beijing-25/.

Ceren Uysal of ÇHD was circulating a petition on the Turkish invasion of Syria and the situation in Greece (the attacks on refugees by the EU and the Greek government). IADL's statement on this issue has been posted here: https://iadllaw.org/2020/03/iadl-statement-on-violations-refugee-rights-in-greece-and-the-eu-and-turkeys-invasion-of-syria/.

Richard Harvey has been working with Raji Sourani (Palestinian Centre for Human Rights, Gaza) and others with respect to the ICC's investigation into war crimes in Palestine. Richard had been leading IADL's current efforts at the ICC on the issue of jurisdiction of the court on these complaints and submitted the request for IADL's amicus to be accepted, which it was. Fabio Marcelli (Italian Democratic Lawyers) and myself contributed.

The European Lawyers for Democracy and Human Rights (ELDH) Working group and ELDH Executive Committee took place on 15th March by Zoom with participation from the UK, Germany, Turkey and Switzerland .

An ELDH solidarity statement with the progressive lawyers in Turkey affected by the new mass arrest in Urfa, Diyarbakir and Syrnak has been published: https://eldh.eu/2020/03/16/eldh-statement-new-mass-arrests-of-lawyers-in-turkey-european-lawyers-grave-concern/. Ceren Uysal reported that Selçuk Kozagaçli and three other colleagues had ended their hunger strike, four will continue without a time limit. A fact-finding mission for the lawyers on hunger strike cannot take place at the moment due to C-19 travel restrictions.

It has been decided to establish a permanent ELDH committee for the Legal Protection of Refugees. Its task will be the development of legal strategies, strategic litigation, observation of significant trials, such as the Malta trial, draft statements and legal case work. The members of the committee should be experts on this field. ELDH member associations are asked to propose their members. Individual members are also welcome.

Deepa Govindarajan Driver reported on the extradition of Julian Assange to the US (see Deepa's article on page 28). ELDH member organisations hold diverging views on solidarity actions for him. Deepa also recommends the investigation by Nils Melzer, the UN Special Rapporteur on Torture: https://www.republik.ch/2020/01/31/nils-melzer-about-wikileaks-founder-julian-assange.

The new European Lawyers for Workers (ELW) is an associate of ELDH and a Zoom meeting was held on 18th March with representatives from a number of countries including Declan Owens, our Haldane Society Chair.

The Labour Law conference will be held on 15th and 16th October in the ETUC / ITUC building in Brussels, financed by the ETUI with ETUC and the ELW Network preparing the conference. Its title, suggested by Silvia Rainone, is 'Re-thinking labour law in the digitalisation era'. 'The impact of Brexit on labour law in UK and Europe' might be the theme of another ETUI – ELW-Network seminar. A Zoom meeting was due to take place on 21st April.

Bill Bowring

February

6: US Senators vote for Trump to be acquitted on both articles of impeachment of abuse of power and obstruction of Congress.

6: Family of teenage motorcyclist Harry Dunn and victims of assault by Jeffrey Epstein unite to call on Anne Sacoolas and Prince Andrew to 'cooperate with law enforcment'.

30,000

Number of Crown Court trials backlogged (before Covid-19) because of government cuts. Some are trying cases for offences said to have occurred two or more years ago.

12: Shamima Begum (who went to join ISIS in 2015) loses the first stage of her appeal at the Special Immigration Appeals Commission against the government stripping her of British citizenship last February.

14: The father and brother of Daniel Newey, a British man who fought against ISIS forces with the People's Protection Units (YPG) in Syria, were charged with funding and assisting terrorism, in the first case of its kind.

Grenfell witness deal choice – truth or justice?

Pictures: Jess Hurd / reportdigital.co.uk

On 26th February, the Grenfell Inquiry announced that no oral evidence given by a natural person in phase two of the inquiry would be used in evidence against that person in criminal proceedings (save for prosecutions for giving false evidence or for particular breaches of the Inquiries Act 2005).

Widely misreported as 'immunity' from prosecution, the Attorney General's undertaking does not protect the individuals from prosecution on other evidence, nor does the undertaking protect the legal persons involved in the inquiry. It does however mean that answers the witnesses provide during cross-examination cannot be used in any future criminal trials against that witness.

This request for 'immunity' from the various contractors involved in the tower renovation led to widespread criticism from the press, and some Grenfell survivor groups. Those opposing the application argued that survivors were being asked to choose between truth and justice, concerned that the undertaking would protect witnesses from future criminal prosecution. As noted in a letter from the Attorney General to the Chief Constable of the Police Service of Northern Ireland in 2013, in relation to a similar undertaking for the Bloody Sunday inquiry, 'an undertaking inevitably limits, to some degree, the ability of the prosecuting authorities to commence proceedings – which is why inquiries normally only take place after any question of prosecution has already been determined.'

Michael Mansfield QC dubbed it 'abhorrent', and questioned the motive behind the last-minute nature of the request. Opponents to the undertaking also argued that the corporate witnesses were being allowed to dictate the terms of the inquiry, whilst other witnesses, such as those from the Fire Brigades Union, gave evidence with no such protection. Further, there was concern that in any future criminal trial, the undertaking could pave the way for criminal barristers to exclude evidence beyond the oral evidence, on the grounds that the CPS was using its knowledge of the oral evidence to build its case.

Those supporting the undertaking argued that the grant would make it more likely that the corporate witnesses would cooperate fully with the inquiry, answering questions they might otherwise refuse to answer on the grounds of the principle against self-incrimination. Section 22 of the Inquiries Act 2005 provides that a person may not be required to give evidence to an inquiry if they could not be required to do so in civil proceedings. Such grants of immunity have been given in previous inquiries, notably the undercover policing scandal, the Ladbroke Grove train crash, Bloody Sunday, Baha Mousa, the Iraq fatality investigations, and Rosemary Nelson.

The undertaking throws the tension between the privilege against self-incrimination, and the interests of the state in the full investigation of inquiries, sharply into focus. It also highlights the sometimes uneasy co-existence of public inquiries and criminal prosecutions. Counsel for the inquiry, Richard Millett QC, reflected this tension when he recommended the request for the undertaking to the chair of the inquiry 'with some regret, perhaps'. It remains to be seen whether the undertaking will indeed prove a barrier to successful criminal prosecutions for the fire.

Charlotte McLean

21: Roger Stone, long-time ally of Trump, sentenced to 40 months in prison for his attempts to sabotage a congressional investigation into whether the Trump election campaign conspired with Russia in 2016.

22: Gett, an Israeli taxi-hailing app , sued by human rights lawyers who allege it allows passengers to avoid Arab drivers. Asaf Pink said: 'They give it a religious title. But in fact this is a proxy service that provides taxis with Jewish drivers'.

Home Office pot for Windrush compensation: £200m to £570m Amount paid out: £62,198
(7th February 2020)

20: Home Office hands private firm Serco (which runs Yarls Wood in Bedfordshire) another multi-million pounds contract to run two more immigration detention centres – Brook House and Tinsley House near Gatwick. Serco has been plagued by alleged abuse at Yarl's Wood.

19: Independent Office for Police Conduct (IOPC) admits a secretive Met intelligence unit, the National Domestic Extremism and Disorder Intelligence Unit (NDEDIU), shredded a large number of documents after the undercover policing inquiry was set up.

New tools of repression, new tools of resistance: imprisoned lawyers in Turkey

The 5th of April was the 60th day of hunger strikes for eight lawyers facing lengthy prison sentences following conviction under Turkish terror legislation, due to their representation of the DHKP-C (Revolutionary People's Liberation Party). All are members of the Progressive Lawyers Association (ÇHD), and this case is the second such mass prosecution of that group's members. They commenced a hunger strike on the 4th of February after the Court of Appeal upheld the sentences without examining the file in January 2020. On 5th April, two of their number ceased taking vitamins, at which point their health began to deteriorate rapidly.

In their weakened state, they are of course highly vulnerable to infection from Covid-19. Legislation is being enacted which will allow prisoners to be released in light of the danger to public health posed by Covid-19, but this will not apply to political prisoners convicted under anti-terror legislation.

This takes place in the context of ongoing persecution of lawyers in Turkey on account of their representation of certain clients, particularly those who are themselves members of organisations such as the ÇHD and the Association of Lawyers for Freedom (ÖHD). Between the unsuccessful coup attempt in July 2016 and June 2019, approximately 599 lawyers were arrested and detained pre-trial, 1,546 prosecuted, and 311 convicted and sentenced to a total of 1,967 years in prison (working out as an average of six years and four months).

The coup enabled President Erdogan's government to instigate a state of emergency lasting for two years, during which time the Turkish State was constitutionally permitted to notify the UN Secretary-General of its derogation from ordinarily legally binding

obligations under the ICCPR and the ECHR and the government was permitted to bypass Parliament to legislate through emergency decrees. Many of these decrees were subsequently enacted by Parliament and are still in force.

They include laws allowing the dismissal of any member of the judiciary who is considered to have connections to groups deemed to be terrorist or against National Security and increasing the proportion of Constitutional Court judges directly appointed by the President. They also included laws prohibiting lawyers under investigation for terror offences (including membership or support for a terrorist organisation or group against national security) from representing clients in terrorism-related cases, allowing the recording of communication between lawyers and clients in pre-trial detention for security reasons, and granting prosecutors the authority to order searches of private premises and lawyers' offices without a court order. In addition, 34 lawyers' associations were closed down by emergency decree.

Meanwhile, a constitutional referendum was held in April 2017, during the state of emergency, on an eighteen-article constitutional amendment package including abolishing the position of Prime Minister and granting the President increased powers over the legislature and judiciary. The referendum result fell in favour of the package, following a campaign widely criticised for the lack of impartial information provided to the public.

Representation of certain clients, visiting them in prison, tweeting about ECtHR cases, contacting international organisations and criticising state practices have all been used as bases for conviction. These clients include anyone with links to Kurdish parties the PKK, the KCK, or to those accused of plotting the coup attempt. Moreover, lawyers have been made to testify against their clients in court, violating the principle of legal privilege and forcing them to cease to act as their representatives.

Picture: Jess Hurd / reportdigital.co.uk

FBU firefighters sort clothes for Care 4 Calai

European Lawyers for Democracy and Human Rights (ELDH), of which both the ÇHD and Haldane are member organisations, has been sending delegations to observe trials of lawyers in Turkey. A delegation due to take place on 5-6th April to investigate the medical condition of those on trial was cancelled due to travel restrictions. Moreover, visiting rights in prisons have been severely restricted, owing to health concerns.

In the current circumstances, the danger is that the international community will turn inwards

March

5: In a landmark decision, the Appeals Chamber of the International Criminal Court decided unanimously to authorise the Prosecutor to commence an investigation into alleged crimes under the jurisdiction of the Court in relation to the situation in Afghanistan. This includes alleged war crimes and crimes against humanity committed by US forces.

6: Ministry of Justice has refused to release information on the suffering of children in prison. The charity Article 39 submitted a freedom of information request for the reasons for 260 uses of pain-reducing restraint in eight young offender institutions and secure training centres in 2017-18.

17,000

Number of documented false or misleading statements by Trump since taking office.

Average of **22** lies per day in 2019.

10: HMIP inspectors have discovered high levels of self-harm, violence and use of force at Morton Hall immigration removal centre in Lincolnshire. One detainee was held there for more than two years and another was waiting for an asylum decision for 11 months.

s at their warehouse in France before distributing them in the refugee camps.

upon their own localised crises. We must not allow that to happen. What has happened in Turkey is an important reminder of the power of states of emergency. As the Covid-19 epidemic unfolds, collaboration and international solidarity in fighting state repression worldwide will be crucial. As states find new tools of repression, we must find new tools of resistance.

Haldane, ELDH, the International Association for Democratic Lawyers (IADL) and AED co-hosted an international webinar on 4th April entitled 'Imprisoned Turkish Lawyers: How Can We Show Solidarity'. Attended by over 70 people worldwide, it was decided that we would work in the short term to host press conferences and send emails and faxes to the Turkish Ministry of Justice, and in the long term to create an online platform with the aim of a better cooperation of the international legal community who are working on this issue: to draw attention, create momentum and inform. We will aim to forge links with those working on similar issues in different countries, and ultimately to push for an international instrument that will enshrine the right of lawyers not to be identified with their clients in international law.

● Contact us via **international@haldane.org** if you want to get involved.

Further crisis for refugees at the Turkey-Greece border

On 27th February 2020, Turkey announced that it would open the Greek-Turkish border to those seeking refuge in the EU. Turkey had agreed with the EU in 2016 that it would take returned asylum seekers from Greece, and work to prevent crossings into Greece, in return for financial aid. Turkey also announced it would send police to resist Greek border guards returning people who did manage to cross the border.

The decision to no longer enforce the deal was widely seen as a response to Turkey's heavy losses in recent operations in Idlib, and its consequent desire to pressurize the EU into providing more aid for Turkey's forces, and those of its allies, in Syria. It was also seen as a response to the growing number of refugees fleeing from Syria to Turkey.

The announcement led to thousands of people attempting to cross at the border, only to be met with fierce violence by Greek border guards. Videos and reports quickly emerged of Greek police using tear-gas, water cannons rubber bullets, razor-wire and stun grenades against those attempting to cross, and of border guards shooting at a dinghy carrying asylum seekers. Greece extended a razor wire border fence along the Evros river as a further attempt to prevent people from crossing. Greece also suspended asylum applications for one month, and announced that it would immediately return people who 'illegally' entered the EU, without consideration of their cases.

Human rights charities and organisations have condemned Greece for turning back asylum seekers. In contrast, the EU commission president praised Greece as Europe's 'shield'. Most member states did not condemn Greece for the violence and the EU has subsequently sought to provide funds to upgrade Greece's border infrastructure and FRONTEX's 'rapid border intervention'. Numbers of attempted crossings have reduced since Turkey began to de-escalate the operation in mid-March and as the coronavirus outbreak has spread.

Events in Greece highlight several painful truths. Firstly, the vulnerability of those seeking refuge in the EU to becoming pawns in cynical political maneuvering between Turkey and the EU. Secondly, the cruelty and violence inherent in 'Fortress Europe'. Thirdly, Europe's continuing failure to provide shelter to millions across the world seeking safety. Finally, as the coronavirus pandemic hits Europe and all news stories focus on its spread, how quickly the news cycle moves on from continuing stories of migrant suffering. Those seeking refuge, who are stuck living in crowded, unsafe and unhygienic camps during a global pandemic, seem now largely forgotten.

Charlotte McLean

22: Crown Court trials across England and Wales are suspended as some judges bow to pressure after complaints about the safety of continuing with physical court hearings because of Covid-19. But the decision on whether cases could go ahead rested with local judges.

24: Hungary's Prime Minister Viktor Orbán announces emergency bill to give him sweeping powers to rule by decree without a clear cut-off date, extending the state of emergency for Covid-19. Orbán has already drawn a link between migration and the virus.

'Creme de la Mer, truffles and Chateau Petrus, the items to stockpile should the UK be forced into a period of self-isolation.'
Tatler magazine gives vital advice on how to survive Covid-19

27: The man charged with murdering 51 people in two mosques in Christchurch, New Zealand in the worst massacre in the country's history (in March 2019) changed his plea to admit all the charges.

30: Police in north west London threatened to fine a bakery boss for criminal damage after she put temporary lines outside her shop to keep her customers safe from Covid-19. The officer said she had 'graffitied' the pavement.

Ian Macdonald QC

by Fran Webber

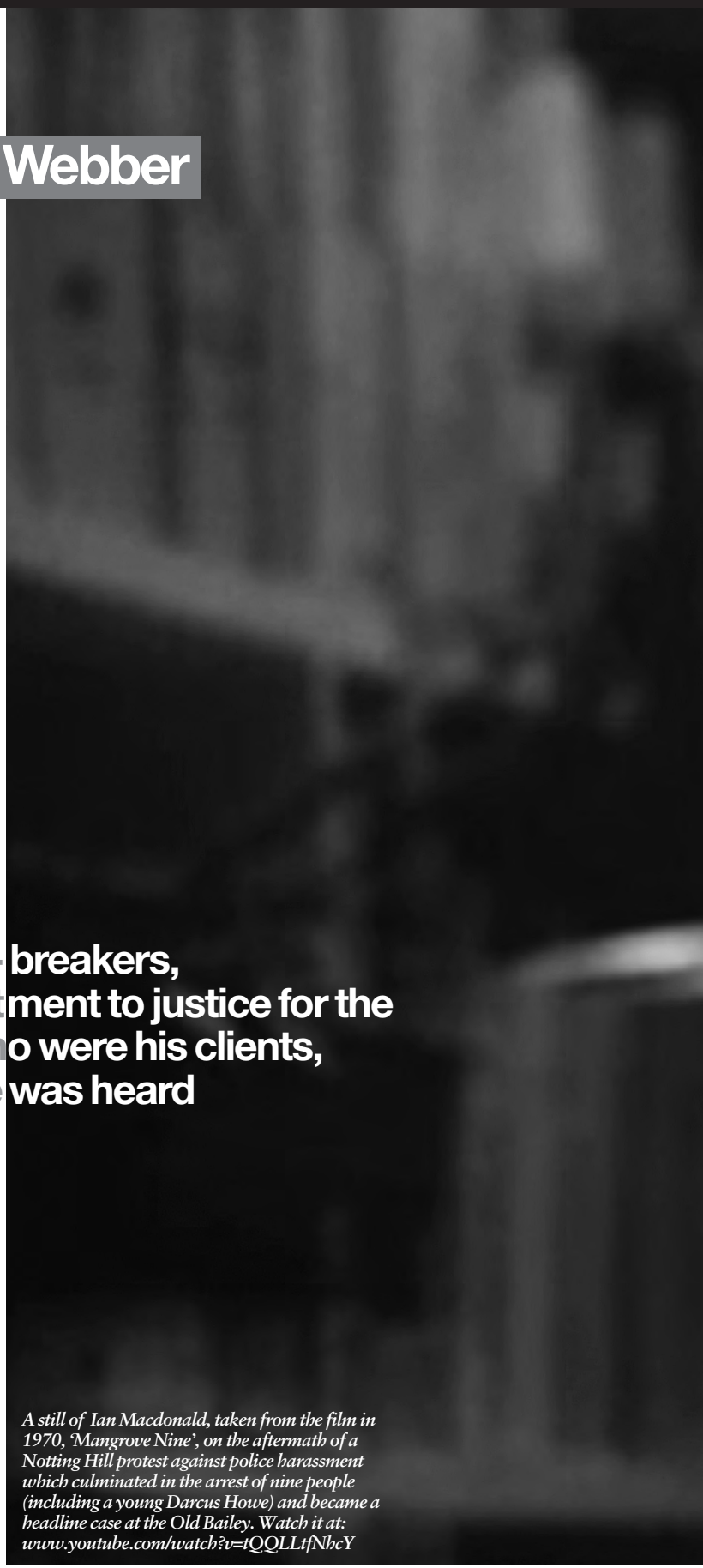
Ian Macdonald QC, who died of a heart attack in November last year while on holiday in Australia, was a pioneer of committed anti-racist legal practice, as a criminal lawyer and as the founding father of immigration law, inspiring generations of young lawyers, including me, to fight for racial justice and for the rights of refugees and migrants through the courts.

It may be hard for younger practitioners to appreciate that, well into the 1970s and '80s, commitment to the people you represented was seen as inappropriate and wrong; lawyers kept their distance from clients, and prosecutors and defence lawyers not only dined together but were required by the cab-rank rule to swap roles. The profession was dominated by rich white men, and was organised to work on behalf of those like them. Also, the police were above criticism; anyone who suggested in court that a police witness was not telling the truth took the risk of being reported to the Bar Council or at the least to his or her head of chambers.

Ian was one of the rule-breakers, manifesting his commitment to justice for the marginalised people who were his clients, and ensuring their voice was heard in the courtroom. Ian realised how

'Ian was one of the rule-breakers, manifesting his commitment to justice for the marginalised people who were his clients, and ensuring their voice was heard in the courtroom.'

intensely political the law was, in maintaining and legitimising structures of power – but he also realised how the state's lip service to civil liberties and human rights could be used both in defensive and offensive struggles for social justice. It was Ian who inspired me to become a lawyer, and he was the reason I wanted to go to Farrars Building, then home to Garden Court Chambers. This group of a dozen radical lawyers was infused with the radical enthusiasm of the 1960s which produced the squatters' movement, the Black and women's liberation movements and the law centre >>>



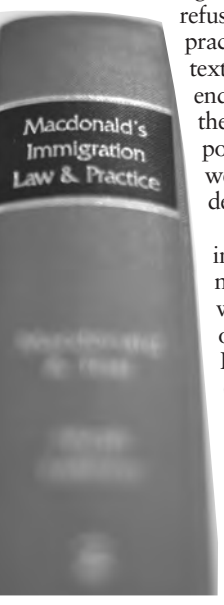
A still of Ian Macdonald, taken from the film in 1970, 'Mangrove Nine', on the aftermath of a Notting Hill protest against police harassment which culminated in the arrest of nine people (including a young Darcus Howe) and became a headline case at the Old Bailey. Watch it at: www.youtube.com/watch?v=tQQLLtfNhcY

1939-2019: a tribute

Ian Macdonald QC
1939-2019: a tribute

>>> movement, and who were determined to bring access to justice to those at the margins. Professor Gus John recalls meeting Ian in the Campaign Against Racial Discrimination (CARD) in the late 1960s, and working with him, Peter Kandler and others to found the first British law centre, in North Kensington, in 1970. North Kensington was notoriously the site of the 1958 Notting Hill race riots, and was known as much for its brutal and racist police as for its slum landlords.

Ian moved to Farrar's Building from a 'traditional' set shortly after the chambers was founded. I met him in the late 1970s at the Institute of Race Relations, where I had worked in 1969-70 and with which I remained connected. He was working on the politics of the 1971 Immigration Act – the Act which removed the right of abode in the UK from citizens without an ancestral connection with the UK, which closed off mass migration from the Commonwealth, and provided the infrastructure of modern immigration control. Immigration law was not taught in law courses in the 1970s or 1980s – it did not exist as a subject – and Ian realised that lawyers needed to know about immigration laws and the practices of the Home Office in order to fight them through the courts. So, he set about writing the textbook which became *Macdonald's Immigration Law and Practice*, or *Macdonald* for short, first published in 1983, now in its 9th edition and fully established as the the immigration lawyer's bible. He refused to follow the normal practice of neutrality in legal textbooks, instead endeavouring to ensure that the politics of particular policies were revealed, as well as their technical details.



His interest in immigration law was never just theoretical. He was a founding member of the Immigration Law Practitioners' Association (ILPA), of which he was president from 1990 to 2014. From the start, Ian was deeply involved in anti-deportation campaigns, representing the wives of British citizens facing deportation after separation, in a number of high-profile cases. He led me in my first case in the House of Lords' judicial committee (the precursor of the Supreme Court) in 1986, Bakhtaur Singh, which established that a person's value to the community had to be considered in any deportation decision. He acted in many more high-profile immigration cases throughout his long career. In 1997, when New Labour introduced the Special Immigration Appeals Commission (SIAC) as a court of appeal for those facing deportation on national security grounds, Ian became a Special Advocate (the lawyer who remains in court to represent the proposed deportee's interests when SIAC hears secret evidence in the absence of the proposed deportee and their own lawyer). He resigned from this role in 2004, after the House of Lords' judicial committee condemned the indefinite detention of foreign terrorist subjects under the Anti-Terrorism, Crime and Security Act of 2001. In his resignation statement, Ian made it clear that the law and its use painted Muslim terror suspects as somehow representative of Islam, and sowed hatred and division.

But if Ian's fame within the legal community rested on his being the founding father of immigration law, his work and reputation spread much wider than this. He was known as a fearless advocate from his early work as defence counsel in the 1970 trial of the Mangrove Nine, black community activists charged with riot after a demonstration against the systematic police harassment of the Mangrove restaurant and its owner Frank Crichlow. The trial was widely seen as a watershed for black community organising and against police racism. After the defendants were acquitted, Ian went on record to say that the purpose of the trial was to 'prevent the growth of organised resistance' to police racism. He went on to represent one of the Stoke Newington Eight in the Angry Brigade trial of 1972, and later represented members of the Newham Seven, tried in 1985 for seeking to defend their community

'We are here because he was here first'

● Adrian Berry, Chair, Immigration Law Practitioners' Association:
'We are here because he was here first. Without him, and his role in fighting for migrants' rights, immigration lawyers and advisors would not be equipped to live and work as they do. His struggle for justice was rooted in an anti-racist practice that involved campaigning and organising, as well as defending in criminal courts those prejudiced by attitudes to their race or ethnicity in the police and criminal justice system. ILPA paid tribute to Ian at our AGM on 23rd November 2019. Generations of lawyers and advisors gave their thanks and wrote in his memorial book. But the voices that really need to be heard to appreciate the measure of this great, great, person are the man who was not deported because Ian argued his case, the woman reunited with her family after Ian's advocacy, and the man released from endless immigration detention because Ian persuaded the Court his confinement was unreasonable. There are so many of them, hundreds and thousands. Not just those who he personally helped but also those helped by others. Others who were trained by Ian, who learned the law from his books, who were critical lawyers because of the way he carried himself, and who were inspired to try and speak as he spoke: clearly, in reasoned words, and on behalf of our common humanity.'

● Professor Gus John:
'The rule of law is a fundamental principle at the core of every democracy. But, safeguarding that principle and the defence of the individual against oppression and tyranny on the part of other citizens, or of the state and its apparatuses requires there to be the most robust challenge to bad law and to the state's abuse of the law. Ian excelled at that, much to the annoyance of the state and certain members of the judiciary, not only in immigration cases but in high profile political cases such as prosecutions under the Prevention of Terrorism Act. His position on the government's Prevent programme, especially as that

'He was distinguished by diffidence, humility, kindness and courtesy. Despite his towering reputation, there was not a trace of self-importance about him.'

against racist attack. He was one of the counsel representing the bereaved families at the inquest into the deaths of 13 young black people in the 1981 New Cross fire, working closely with the New Cross Massacre Action Committee. In 1987 Ian chaired an inquiry into racism in Manchester schools following the racist murder of Ahmed Iqbal Ullah in the playground of Burnage High School, whose report was too radical for the city council, who had commissioned it, to publish. It was later published as *Murder in the Playground* in 1989.

Ian's whole life was driven by the search for justice for the marginalised, particularly the fight against racism, and justice for women and for workers. When Ian applied to become a QC, under the arcane system of judicial nods, winks and 'soundings', it was his identification with the marginalised which led then lord chancellor Lord Hailsham, in Ian's gleeful retelling, to exclaim 'Over my dead body!' Sure enough, Ian got silk in 1988, the year after Hailsham's retirement.

The breadth and depth of Ian's commitment was illustrated by the speeches at his 80th birthday celebrations – from Paul Joseph, a leading light of the anti-apartheid movement; from physician, research scientist and activist Althea Jones-Lecointe (one of the Mangrove Nine defendants); from feminist and anti-racist writer Selma James; and from eminent educationalist and commentator Professor Gus John, amongst many others. Yet as a colleague he was distinguished by his diffidence and humility, his kindness and courtesy, his humour and his willingness to be teased. Despite his towering reputation, there was not a trace of self-importance about him. Human rights lawyer Krishnendu (Tublu) Mukherjee says he will never forget how, when he was my pupil, Ian crossed the road to say hello to him. That was typical of the man.

I shall miss Ian hugely. We all will. He guided and strengthened us in our struggles against injustice, inside and outside the courts.

related to the profiling and indiscriminate criminalisation of young Muslims and to the duty placed on universities and other education providers to engage in intrusive surveillance acted as a boost to many of us in our efforts to resist the mindless implementation of Prevent, especially in schools and universities.'

'Inspired, mentored and informed by his example'.

● Ronan Toal, barrister, Garden Court Chambers and general editor, *Macdonald's Immigration Law & Practice*

'Ian's book was originally called *Immigration Law and Practice*. Later editions were called *Macdonald's Immigration Law and Practice* in defiance of the archaic convention that legal text books could only be named after a dead author. Before his book there was really no such thing as 'immigration law', the state confining the treatment of immigrants to the sphere of untrammelled administrative discretion and prerogative power. The book changed that by creating the discipline of immigration law whereby the powers used by the state to control immigration are at least subjected to the rule of law.'

● Stephanie Harrison QC, Joint Head, Garden Court Chambers:

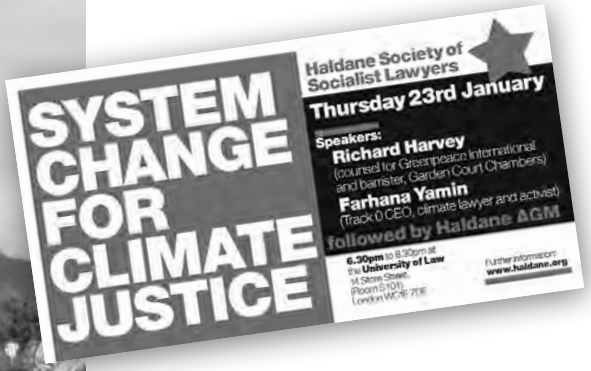
'Ian Macdonald's status as the founding father of immigration law is well known and unquestionable. It is reflected in his legacy of landmark cases, the leading text on immigration and asylum law now in its ninth edition and the vast number of practitioners, campaigners and activists across the country and the generations who have been inspired, mentored and informed by his work and example. Ian passed on not just his immense knowledge and legal skills but his deep and sustaining passion to challenge immigration laws and practice, which he saw as integral to the wider and central struggles against racism, nationalism and xenophobia which defined Britain's colonial legacy and which are now once again at the centre of our domestic politics and indeed in the heart of our government. Ian Macdonald's contribution to Garden Court Chambers, which he joined in 1974 and which he directed, along with Owen Davies QC, for over 30 years, is immense and immeasurable. Under his leadership Garden Court and Garden Court North were established as leading sets of Chambers committed to providing access to high quality legal advice and representation to those disadvantaged in society and at the forefront in challenging inequality and discrimination in and before the law, but also in access to the legal profession. He personified the motto of Garden Court: *"Do Right. Fear No-one".*'

SYSTEM CHANGE FOR CLIMATE JUSTICE

Legal actions and activist lawyers

How can we, as lawyers, play a role in limiting the ongoing climate crisis and change the global economic system to build a more ecological – and socialist – world? Are our efforts mere vanity, or is there the possibility of either using the legal system, or our own privilege, to enact climate justice?

The Philippine city of Tacloban after Typhoon Haiyan struck in November 2013.



by Stephen Knight

This was the theme on which the Haldane Society's Annual General Meeting was addressed by Richard Harvey, a Haldane Vice-President working on climate justice issues for Greenpeace International, and Farhana Yamin, an internationally renowned environmental law expert and climate activist.

Richard focused on strategic litigation: picking cases that will change the system. This applies huge pressure on corporations and governments, integrating overwhelming evidence from scientific experts with mass public support backed by a broad spectrum of the media. People power, though, is key: without it, cases may be tactically sound but are unlikely to have a *strategic* impact.

Did tobacco litigation change the system? Although it undermined the social licence of a powerful industry, it nonetheless took four decades before the tobacco barons were forced to pay compensation for the incalculable damage that they caused to society. Those same capitalists continue to make huge profits from the misery that they cause. The cases may have been won – and may have made some lawyers very rich – but their impact was limited by their lack of strategic vision.

Richard contrasted this with three cases which demonstrate how strategic litigation can genuinely effect change.

When the *Urgenda* case began in >>>

Picture: Istock / Tigeryan.

>>> the Netherlands in 2013, many people were concerned that the claimants would lose and make bad law. But in 2015, before the Paris agreement was signed, the Dutch courts declared that citizens had the right to demand that their government expedite measures to protect them from the known risks of climate change. The Dutch government appealed, as emissions continued to rise. The Court of Appeal upheld the judgment of the first instance court, and went further, expressly stating that the Urgenda Foundation had the right to assert ECHR Article 2 and 8 rights on behalf of all Dutch citizens. The Dutch government appealed again, and on 20 December 2019 the Dutch Supreme Court ruled that the government must take all necessary steps to reduce emissions, which constitute a real and immediate threat to citizens' Article 2 and 8 rights.

In the Philippines, a complaint was lodged with the Philippines Human Rights Commission by Greenpeace Southeast Asia and a number of survivors of Super Typhoon Haiyan. The Commission launched a national inquiry into the responsibility of coal, oil, gas, and cement producers for human rights violations resulting from climate change. The science has now become so clear and well-researched that there is no way to challenge the findings that corporations have committed a massive human rights threat to the lives and livelihoods of individuals worldwide. That threat was so powerful in the Philippines that it contributed to a typhoon that killed more than six thousand.

Finally, in June 2016 the Norwegian government ratified the Paris Agreement. In the same month, it also granted 10 new licences for oil and gas exploration in the Arctic Ocean. Greenpeace and a youth organisation, backed by the Grandparents Climate Action group, took them to court to assert the rights under Article 112 of the Norwegian Constitution which states that:

'Every person has the right to an environment that is conducive to health and to a natural environment whose productivity and diversity are maintained. Natural resources shall be managed on the basis of comprehensive long-term considerations which will safeguard this right for future generations as well.

'In order to safeguard their right in accordance with the foregoing paragraph, citizens are entitled to information on the state of the natural environment and on the effects of any encroachment on nature that is planned or carried out.

'The authorities of the state shall take measures for the implementation of these principles.'

This had never before been interpreted by a court. The government claimed that this right was really just a 'principle' and not justiciable. The court at first instance held that it *is* a right, but that the government's conduct in opening up its these areas to oil exploration was not a violation of the right. The principal reason for this was the court's finding that the emissions of exported oil and gas were not Norway's responsibility.

On 23rd January 2020 the Court of Appeal ruled that the right to an environment is a right, that Norway *is* responsible for the greenhouse gas emissions from its exports, but that the government had not acted unlawfully in its actions, having taken the steps it was legally required to at the time. Greenpeace is appealing to the Norwegian Supreme Court. The important result of this case was that it changed the conversation in Norway and impels countries to think about all

Above: Typhoon survivors join the Philippine Movement for Climate Change to protest against the fossil fuel companies driving catastrophe.

The Netherlands Supreme Court ruling in the Urgenda case on 20th December 2019 was that the Dutch state should do more to reduce greenhouse gas emissions. The State's appeal in cassation was dismissed, the verdict final that they must reduce emissions.

the emissions caused by their exported greenhouse gases.

Some 600 climate cases have been brought in 27 countries, and in the 28th, the United States, 1,800 climate cases have been brought.

Strategic climate lawyering is not about trying to win a pot of money. 'Winning' requires complete redefinition. It involves changing the conversation, forcing everyone to confront the reality of the end of oil, something unthinkable for countries that have built their entire economies and resilience on fossil fuels. Changing the conversation is strategic.

The 'business as usual' attitude is being confronted by cases that force us to deal with the environmental destruction currently being perpetrated. The fact that groups such as Greenpeace are seen as a threat to 'business as usual' is a vote of confidence. The climate crisis is an issue fundamentally of self-determination: who disposes of the world's resources?

Farhana challenged us as individuals and as lawyers to take action. We cannot afford to silo our legal careers from our roles as citizens.

Previous generations did not sufficiently link the capitalist system to the global threat caused by the climate crisis. As a result too much time and effort was spent on attempting to calibrate market economies to a threat that could not be challenged by tinkering at the edges of economic systems. This was a misguided and naive approach. These half measures meant that even when industry was unable to prevent legislation being introduced, industry was still able to ensure that the legislation itself had no effect.

The approach of the capitalist class has been firstly to use denial tactics, claiming that the climate crisis is merely alarmism. When this approach stopped working, the capitalists moved on to pushing for something to be done in the future, when technology had developed to deal with climate change. Now that matters cannot be put off any further, big business continues to exercise its control of politics in whole countries to prevent action being taken to prevent the climate crisis which would have any impact on its profits. Industry has lost the argument, lost credibility, and so can only win through corruption, bribery, and buying out elections. For instance, in the US the CEO of ExxonMobil became Secretary of State under the Trump regime.

In the light of the complete failure of existing systems to curb the climate crisis, no profession – no one who works – can afford to maintain a neutral stance. We cannot afford for people to be neutral on the greatest issues of justice of the day. Even if we do not all have to be arrested, we do all have to act. To view oneself as able to be arrested in support of climate activism is a position of (often racial) privilege. Nonetheless, those who are sufficiently secure and established (whether in their legal careers or otherwise) and who have the privilege to be able to do so, can take risks, and it is time for this to happen. We need to take risks if we are to make the changes we need as a planet.

Whereas strategic litigation takes a lot of time there are individual decisions that we can take, in terms of consumption, diet, and action which individually make a difference to the impact we have on the climate. We need to change our values, ethos, and behaviour.

As socialist lawyers, we must be committed to system change, not just through the ballot box but through the creation of a new system. Equally, for that system change to be meaningful, and equitable, it must be socialist change.

Stephen Knight

Picture: www.greenpeace.org

Picture: www.besteforeldreaksjonen.no

Right: Activists from the Norwegian Grandparents Climate Campaign demonstrating in front of the Parliament building in Oslo.

STOP THIS EXTRADITION

The Haldane Society opposes the extradition of journalist and publisher Julian Assange to the United States of America. In a statement on our website, we highlighted our grave concerns that any extradition would legitimise the extra-territorial over-reach of the US state, which is proposing to try Assange, a non-US citizen, in the US under US laws, without First Amendment protections of free speech. If extradited, he will be placed in administrative detention and, if convicted, he faces a possible prison sentence of 175 years for his actions which revealed serious war crimes. Permitting the extradition of Assange to the US would therefore set a dangerous precedent.

The UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and United Nations Working Group on Arbitrary Detention have found Assange to be a victim of prolonged and severe psychological torture and arbitrary detention. Given these findings, our statement urged the British government to observe its duties under international law and domestic law, to investigate and to take appropriate action to address any breaches of Assange's human rights.

We are also deeply concerned about the breaches of Assange's rights to privacy and to legal privilege. He, like all other accused, has the right to a free and fair trial. The British state is required to afford all defendants their human rights, to honour international law whether deriving from treaty or from international custom and practice, and to ensure that domestic law is upheld. Such considerations are not intended to be optional or dependent on the nature of the crime, the nature of the circumstances or the discretion of the judge or the State.

At the present time of pandemic, we also strongly support Assange's request for immediate bail, given his chronic lung and other medical conditions, the expert testimony regarding the spread of COVID-19 in prisons and other detention facilities, and the risks therefore arising to his life and all prisoners from potential exposure. However, Assange's bail application was denied on 25th March 2020. At the time of writing, his extradition case has been adjourned until May 2020, but as the photographs on these pages show, he had strong support at a demonstration outside court in February 2020 and the campaign for justice continues.

Deepa Govindarajan Driver

Pictures: Jess Hurd/reportdigital.co.uk

A revolution is a series of radical changes in

Radical lawyering in times of revolution: dispatches from Lebanon

Pictures by: Tariq Keblaoui

the way people relate to institutions of power, writes NOUR HAIDAR

In Lebanon, our streets, our open squares and our homes have become sites of revolution. While the rhythm of the revolution continues to ebb and flow, ongoing acts of civil disobedience, collective action and protest have irreversibly subverted the permanence of Lebanon's ruling oligarchy.

Between 17th and 29th October 2019, it took only our bodies – approximately 1.2 million of them – to bring the country to a standstill and ignite the ongoing revolt. Across the country, people screamed, 'we don't want reforms, we want this system to collapse / down with the hegemony of the central bank / down with the police state / down with the rule of (political) thugs / the nation is for its workers, down with the hegemony of capitalism.' Protests erupted across every major city in Lebanon and a nationwide strike was successfully implemented. Roads were blocked and under-construction luxury sky-scrapers were set ablaze.

These actions were spontaneous, and their agents cut across traditional political and demographic boundaries, signifying unprecedented solidarity against the government's implementation of severe austerity measures and regressive taxes (on everything from bread and gas to WhatsApp calls). Within hours, the protests revealed deep, collective anger at the sulta, or ruling class, in its entirety. For example, in the southern district of Tyre, where approximately 36 per cent of the population lives on under $4 a day, protestors set fire to the city's infamous luxury hotel. Owned by Nabih Berri – Speaker of Parliament as well as leader of the armed Amal Movement and former war-lord – the resort is built on public land, is destroying a shoreline that is a legally protected marine reservation, and and entry costs $30 per person.

Two days after the resort was set on fire, the public prosecutor opened a criminal investigation alleging trespass, theft and destruction of private property. The court summoned 51 young men including three minors for preliminary investigation. Nineteen of those summoned, all aged between sixteen and twenty years' old, were arrested without warrant and detained for at least thirty days. Six of them remained in pre-trial detention for 53 days.

Many of the detainees told their lawyers that they had been severely beaten while they were being interrogated and throughout the period of detention. These statements were confirmed by forensic doctors' reports and presented to the court when their lawyers petitioned for their release. The court repeatedly refused to release them. Only when the holding company of the luxury resort agreed to their release did the judge order the first group of detainees to be released on bail.

The criminal justice system has been an immensely powerful tool for the regime throughout the revolution. Riot police using excessive amounts of force, mass arrests, kidnapping by agents of the military intelligence, torture, imprisonment, drug testing and cyber-crime laws targeting free speech and trials in both criminal and military courts have all been used as means to punish protestors and activists. As socialist lawyers committed to radical struggle, what can we learn from the experiences of lawyers working at the forefront of a revolution?

The revolution is ongoing and is constantly subject to shifting pressures. Necessarily, these have shaped the way that lawyers have approached 'radical lawyering' in Lebanon today. Before exploring the specific work of the Lawyers' Committee for the Defence of Protestors, we have to contextualise the ongoing state of revolt within which we are operating.

>>>

‘Organisers and protestors changed tact: without millions in the streets,

>>> **On 29th October 2019**, then-prime minister Saad Hariri resigned and dissolved the cabinet. Hariri was appointed by President Michel Aoun in 2016 as part of broader political compromise agreed upon by major sectarian party leaders. This ‘pact’, as it came to be known, created a government which allowed two opposing coalitions of sectarian parties to govern at the same time. On the one hand, the Presidency was filled by Michel Aoun, founder of the Free Patriotic movement and ally of Hezbollah and the Amal movement. On the other, in his role as Prime Minister, Hariri represented a loose coalition including his own Future Movement and the right-wing Lebanese Forces party, as well as the Kataeb party.

Thus, Hariri’s resignation and the subsequent dissolution of the cabinet, which had included ministers from across all parties, destroyed the pact and effectively left one ‘coalition’ in power (represented by President Aoun and Speaker of Parliament Nabih Berri). This meant that Hariri’s coalition, which had long held power prior to 2016, could suddenly join ‘the opposition’ movement swelling across the country. The parties that remained in power used this split as an opportunity to impose a sectarian narrative on the revolution. According to this narrative, the revolution had been ‘co-opted’ by Hariri and his allies (notably, parties that are allied with Saudi Arabia and the United States) and this was now a revolution against the entire Shi’a population in the first instance and Maronite Christian supporters of Michel Aoun’s party in the second.

Not lost on anyone, of course, is the crude fact that it was Hariri’s father, a multi-billionaire and Prime Minister of Lebanon during the post-war reconstruction period, who was largely responsible for the aggressive implementation of neoliberal policies in Lebanon in the 1990s. These included the financialisaton of the economy the parallel neglect of productive industries and agricultural development and support for (as well as personal investments in) multi-billion-dollar real estate and development projects, which resulted in thousands of working-class families being dispossessed of their homes. Of course, each of these policies has contributed to the debt and currency crisis currently strangling Lebanon.

Hariri’s resignation caused a major shift in the pace of the revolution. Most notably, a significant number of protestors who had stepped out in anger against the ruling class, but who strongly identify as Shi’a Muslims (and who form an overwhelming percentage of Lebanon’s working-class population), retreated away from joining the ‘spontaneous masses’. While some walked away entirely, others organised to form activist groups targetting specific institutions of power, including the judiciary, the Central Bank, the Association of Banks and private banks themselves.

The diminishing number of people taking to the streets across Lebanon coincided with protest fatigue and growing anxiety about the imminent collapse of the banking sector. Banks started implementing informal capital controls on depositors’ dollar accounts, forcing people to limit their withdrawals to $200 per week. At the same time, the official dollar exchange rate pegging the lira to the dollar at $1 to 1,500LL was slipping. Currency exchange brokers were selling dollars at $1 to 2,200LL and prices soared across Lebanon, with some estimating that inflation between July 2019 and February 2020 reached 40 per cent. Cross-sectarian, class-conscious activists and students coalesced around exposing the Central Bank and its thief-in-Chief, Riad Salameh as responsible for the immense amount of suffering people were experiencing.

The revolution continued, but organisers and protestors changed tack: without the force of millions in the streets, they started to focus on direct action against specific institutions of oppressive power. Dozens of groups organised themselves to sustain the movement, both across the country and against every pillar of a system which has allowed ‘the richest 0.1 per cent of the population, around 3,700 people, [to] earn as much as the bottom 50 percent, almost two million people.’ During this phase, the revolution adopted distinctly left-leaning, perhaps even wholly socialist, strategies of subversion and for building power.

The Lawyers’ Committee for the Defence of Protestors is an independent, non-funded, non-hierarchical collective of lawyers. The Committee first formed during massive demonstrations in 2015, with the primary aim of representing people charged with crimes related to demonstrations or acts of civil disobedience. In October 2019, the Committee adopted an updated, two-pronged strategy: first, emergency defence and counselling for protestors upon arrest, and second, strategic litigation against state actors.

As demonstrated by the case of the 19 protestors arrested in Tyre, the police, public prosecutors and even judges regularly disregard detainees’ legal rights upon arrest. Additionally, Lebanon’s legal aid programme is, unsurprisingly, underfunded and understaffed. The Committee organised to fill this gap: we bought a hotline, staffed it with volunteers and spread the number along with instructions to activist groups involved in protests across the country.

The instructions were simple: if you see someone getting arrested during a protest, ask them to scream their name; if you are close enough, ask the police officers where they are taking them; and then call the hotline immediately to inform us of the arrest. Hotline staffers would then share the information with a group of lawyers, asking if there was anyone available to go down to the police station as soon as possible. The strategy was and continues to be to exert as

‘Strategy: emergency defence and counse

they focused on direct action against institutions of oppressive power'

much pressure as possible on the police to abide by the law – to allow detainees to inform someone of their arrest by phone, to be counselled by a lawyer prior to their interrogation, and to ensure that detainees who were clearly injured were given medical attention and a forensic report of their injuries.

Incredibly, the strategy was successful, but only in Beirut. By 19th November, one month into the revolution, police officers at most stations around Beirut were allowing lawyers in to counsel detainees. Those arrested were not being held for more the legal maximum of 48 hours and were being given the opportunity to inform someone about their arrest. The fact that lawyers were showing up within hours of arrests being reported gave protestors the confidence to stand their ground at protests. Being arrested had far less potential to lead to indefinite detention and consequently to silence protestors out of the streets.

However, this kind of action by lawyers raises important questions about the limits of their radicalism. To get into police stations, you have to have a good relationship with the officers on duty or their superiors. When their superiors are all affiliated with the parties the revolution is seeking to overturn, what boundaries must be drawn in the name of the cause or the struggle? Lawyers occupy positions of privilege: they are members of an historically elite profession and by necessity must maintain working (and often close) relationships with the institutions they are fighting – that is, judges, prosecutors and police officers. In this context, the lawyer becomes a professional negotiator who moves >>>

lling for protestors on arrest, and strategic litigation against state actors'

>>> between anti-establishment protests and meetings with representatives of that same establishment.

How can a lawyer be radical and subvert the existing order if their profession forces them to work within it? In other words, when the revolution wants to burn it all down, but we still have to play by the rules (for example, to ensure protestors are being released from arbitrary detention after mass arrests), how can we ensure we are not harming the revolutionarily push for radical change by maintaining our relationship with existing structures of power?

The Committee does not have definite answers to these questions. We are instead working towards building a shared understanding of what it means to be radical lawyers. Many broadly agree that working within a movement requires more of you than just your legal expertise. It requires you to make sure you are partnering with the movement to build power for the marginalised communities that make up that movement, not merely representing them or speaking for them in court rooms and hallways of power they care little about.

Part of this responsibility is to contribute to knowledge building: taking the time to run workshops for various groups of activists – including high-risk activists such as undocumented migrant workers, journalists and refugees – to share our 'insider' information on legal rights, police powers and criminal legal processes in general. Whilst access to information in Lebanon is scarce, and the legal field is dressed-up in inaccessible language and inconsistent behaviour by state actors, lawyers carry a wealth of information about how to navigate these spaces.

The second prong of the Committee's strategy, litigation against state actors, has not been as successful in achieving immediate change in redistributing power away from police officers and towards defence lawyers, but has nonetheless been a key element in our ability to gather data and draw out patterns of behaviour by the security forces throughout the revolution. Since 17th October, we have documented more than 944 arrests and 661 cases of violence against protestors either by security forces, including riot police, the army and army intelligence, or by civilian supporters of politicians and politicians' bodyguards. Approximately 207 cases of violence against protestors occurred while in the custody of the police, the army, or the army intelligence unit. Protestors' witness statements from those nights included the following testimony:

'I passed out while they were beating me, my head was split open from the back and I was bleeding when I got to the police station and I had a seizure, I had never had one before.'

'I begged them to stop, I was on the floor – I didn't understand why there were six or seven of them, kicking me all over my body, my back and my head. I was in a neck brace for three weeks after I was released from jail.'

'The riot police asked me, "you think you're going to get a revolution?" before he punched me again, they were beating me with their batons, with their boots. As though they were having fun.'

'We were blind-folded. They took us outside, told us to get on our knees. Ten seconds later one of them cocked his rifle right by my ear – I thought he was going to shoot me.'

After documenting the testimony of more than 100 protestors who had been beaten or tortured by security forces and obtaining forensic doctors reports for more than 70, we submitted 15 criminal complaints on behalf of 17 clients to the Attorney General, providing evidence that our clients were subjected to torture, kidnapping, assault and excessive use of force in order to intimidate them and prevent them from continuing to protest. Not only did the prosecutor refuse to investigate but he transferred the complaints to military court – where the relevant prosecutor also refused to investigate the claims.

In response, the Committee held a press-conference that was broadcast across the nation, clearly restating all our evidence and openly accusing state security forces of torture, among other felonies. This was unprecedented. Through it, we were able to contribute to various ways in which the revolution has been fuelling a collective reconceptualisation of people's relationship with the law.

During a revolution, nothing and nobody is off-limits. We are working on burning down a system of deep structural injustice. Inequality pulses through the core of Beirut. Here, inequality is not merely an economic descriptor, it is an elemental principle of the city in its current form. Unequal access to resources underpins every resident's relationship with the space around them and the services they receive. Those who have the most to gain from the revolution, those who are suffering the most under the current system have forced the revolution to take on redistributive values at its core. As volunteer lawyers, whose role has become defending members of our revolution, we are forced to ask: how can our work empower communities on the frontlines of the revolution? Because without them, we do not have a revolution.

Nour Haidar is a solicitor working in Beirut. Her work focuses on gender justice as well as the intersections between privacy, freedom of expression and criminal justice. Nour is currently a legal fellow at Legal Agenda and works with the Lawyers' Committee for the Protection of Protesters. Sometimes she tweets about law and politics *@nourhaidar11*.

... to torture, kidnapping, assault and exce

POSTCRIPT

On 15th March 2020, the Lebanese Government declared a 'general mobilisation', passing a legal decree to combat the spread of Covid-19. By and large, this was a welcome decision, with many legal experts preferring a state of 'general mobilisation' to the declaration of a state of emergency – which would have turned the state over to military rule.

In order to contain the spread of Covid-19, the decree 'banned congregations of all kinds in public and private places', closed all air, sea and land ports and shuttered all public and private establishments. To enforce the temporary restrictions on movement and freedom, security and municipal forces have the power to enforce these provisions, as well as 'take the immediate measures needed to prosecute violators before the competent judicial authorities.'

Of course, this dealt a major blow to the momentum of our ongoing revolution. The problem we are facing as this goes to print is that while everyone can understand the urgent need for a temporary lockdown, Lebanon remains a deeply unequal country. A growing number of people within our communities survive on daily and often, unstable income. They simply cannot afford to 'stay home'.

Covid-19 has shed an even brighter light on the dire need for a revolution in Lebanon. Our society must demand basic economic rights: free healthcare, progressive labour rights with paid sick leave for all and job security for all – including migrant workers and refugees – as well as the right to housing, water, heat and electricity. To alleviate the immediate suffering felt across the country and to nourish a society that uplifts its members facing unbearably difficult realities, many activists and organisers have turned their energy and attention to providing emergency relief for families and individuals who need it the most as the country remains in crisis.

ssive use of force in order to intimidate them from continuing to protest'

Resisting colonial jurisdiction

Defending Wet'suwet'en territory from fossil capital

After Canada's rail network was shut down by indigenous and allied land defenders in the struggle against the Coastal GasLink fracking pipeline project on Wet'suwet'en territory, a draft agreement stalled due to Covid-19 but the pipeline project pushes ahead. **Charlie Powell** reports.

Since 10th February this year, indigenous land defenders and allies have successfully shut down Canada's rail network in direct action against the state's continuous encroachment on unceded Wet'suwet'en territory. The government of British Columbia has repeatedly used intimidation and violence to remove indigenous people from Unist'ot'en territory in attempts to clear the way for fossil fuel pipeline construction. Following a wave of arrests in January and February, the call to 'shut down Canada' was followed by actions across the country. Over six rail blockades were set up, as well as road blockades and a weeks-long occupation of British Columbia parliament buildings led by indigenous youth.

By mid-February, blockades to shipping had stalled the activities of over 60 international cargo vessels along the coast of British Columbia, unceded Coast Salish territory. Almost all of Canada's rail network was affected, with Via Rail, one of the largest train operators, forced to dispense hundreds of thousands of dollars in refunds. The scale of these actions has caught the attention of international media for the first time on this issue, despite the best attempts of Wet'suwet'en land defenders to call on international scrutiny and solidarity

against the occupying Canadian government.

These actions have led to the beginning of crucial talks between government and indigenous representatives. A draft agreement between Wet'suwet'en hereditary chiefs and the Provincial and Federal Government has been drawn up, but the process of consultation and ratification within the Wet'suwet'en nation has been placed on hold due to the COVID-19 crisis. However, Coastal GasLink is continuing construction of the pipeline on unceded Wet'suwet'en territory despite the public health risks of pushing ahead with construction and keeping workers in man-camps on the territory. They have said that non-essential workers are working from home, claiming that ongoing construction is an essential service. The urgency with which they are pursuing construction is not surprising, given both the mounting international pressure against their project and the recent US Federal court decision to revoke the permits of the Dakota Access Pipeline. At present, there is little prospect that the Wet'suwet'en struggle against Coastal GasLink will see any court decision along the lines of this landmark victory for the Standing Rock Sioux.

Using colonial law to enforce colonial jurisdiction

The current struggle centres on the Coastal GasLink pipeline project, a state-backed fracking pipeline which intends to carry natural gas to a processing facility on the Pacific coast. Construction of the pipeline is underway, despite the fact that large sections of it cross through Wet'suwet'en territory without the consent of all indigenous stakeholders. Some consent was granted by elected chiefs, a system of governance imposed on First Nations by the Indian Act 1876, but consent has not been granted by the five Wet'suwet'en hereditary chiefs who hold Aboriginal Title over the land through which the Coastal GasLink pipeline intends to build. This includes the area of the Morice River south of Houston through which Coastal GasLink intends to build belonging to the Unist'ot'en House Group, affiliated with Dark House of the Gilseyhu (Big Frog) clan. They constructed a camp on their lands which they have been occupying since 2010, and this is now effectively under siege by the police. The supreme court of British Columbia handed down an injunction on the 31st December 2019 restraining the Unist'ot'en from barring access to pipeline constructors on their own lands.

The British Crown never conquered or made a treaty with the Wet'suwet'en. The governance system and land law of the Wet'suwet'en is an unbroken tradition and had legal recognition even under British law during the original colonisation of British Columbia. It exists as a matter of Canadian Law today, is recognised as predating colonisation, and is part of the Constitution Act, the highest law of Canada.

The legal basis on which the Provincial Government of British Columbia claims jurisdiction over the land and the authority to grant access to Coastal GasLink without the consent of Hereditary Chiefs is, quite simply, a policy of denial. Despite never having had jurisdiction, even under its own laws, over indigenous lands, the colony of British Columbia began passing its own land laws over them in the 1860s. This has continued to the present day. A 2004 Canadian supreme court ruling refers to this as *de facto* control over the territory. This recognised that the authority by which the provincial government dispossesses first nations and grants access to their lands is not based in any established legal authority, but simply in the fact that that is what it has done for the past 160 years.

The provincial government has made no attempt to justify its infringement of Wet'suwet'en Aboriginal Title over the land in this case. Furthermore, the provincial government itself unanimously passed a bill committing it to the principles of the UN Declaration on the Rights >>>

Left: Chief Howihkat (Freda Huson) in ceremony while the armed Royal Canadian Mounted Police (RCMP) raid the Unist'ot'en camp to enforce the Coastal GasLink injunction.

Above: Indigenous-led rolling blockade in Ontario; banner reads 'NO PIPELINES: Stop RCMP invasion on indigenous lands'.

>>> of Indigenous Peoples, which it is now clearly violating. While the legal situation may seem neither here nor there to the politics of colonisation, it actually amounts to a nakedly authoritarian declaration of state power justified by state power. In continuing to exert *de facto* control over Wet'suwet'en land despite the legal contradictions inherent in doing so, the units of armed police which are the bottom line in any question of state power become the main argument by which British Columbia reproduces itself.

On Monday 10th February a convoy of armed Royal Canadian Mounted Police (RCMP) invaded Unist'ot'en land, battered through the gates of the camp, and arrested three Unist'ot'en matriarchs during a ceremony to call on Wet'suwet'en ancestors and honour missing and murdered indigenous women, girls and two-spirit people. Freda Huson (Chief Howilhkat), Brenda Michell (Chief Geltiy), Dr Karla Tait, and four indigenous land defenders were forcibly removed from the territory. Police tore down the red dresses hung to hold the spirits of victims of violence, and extinguished the ceremonial fire.

This is one of many sets of arrests, including incursions onto Wet'suwet'en territory, to have taken place over the past year. On 7th January 2019, highly militarised RCMP units conducted a raid on the Unist'ot'en camp. On 22nd January Victoria City Police arrested thirteen indigenous youth who peacefully blocked the entrance to the Ministry of Energy, Mines and Petroleum Resources. On 13th January, RCMP set up an exclusion zone around the Unist'ot'en camp without legal precedent or justification. The exclusion zone is now lifted, but not before more arrests were made of supporters camped around the edges of the zone.

'It's a whole damn army up there. They've got guns on, they've got tactical gear on. They look like they're ready for war.' Wet'suwet'en hereditary Chief Woos (Frank Alec).

Many of these arrests have led to no charges, again confirming that they are being used primarily as a tactic of violence and intimidation quite apart from the particularities of law. The RCMP have intimidated members of the press, threatened them with arrest, and removed them from several sites before making arrests. The RCMP have also admitted surveilling Wet'suwet'en people with aerial vehicles, and sending in snipers with scoped rifles to observe land defenders. One video released on 15th February clearly shows an RCMP officer pointing a gun at unarmed land defenders.

Fighting back

The central means of resistance in the Wet'suwet'en struggle against colonial dispossession and fossil capital has been reoccupation of their ancestral lands. The Unist'ot'en camp is located right within the 'energy corridor' through which three pipelines intend to build, effectively blocking their path. This measure was taken in order to protect the land, the wildlife and the water table from the environmental damage of inevitable pipeline spillage. Since 2010, a healing centre has been built on the land, providing a space for indigenous people to heal from colonial trauma by reconnecting with the land. The camp is home to members of the Unist'ot'en house group and hosts other indigenous allies as well as non-indigenous supporters.

Unist'ot'en jurisdiction over the land is exerted through manned road blockades which require 'free, prior and informed consent' before entry onto the land. This is an effective means through which Coastal GasLink prospectors and other fossil extraction companies have been prevented from accessing the land and has functioned in a similar way to the occupation of the *zone à défendre* in France, occupied by its own residents since 2009.

In early January, Wet'suwet'en hereditary chiefs issued an eviction notice to Coastal GasLink, requiring them to leave the territory. RCMP then set up the exclusion zone around the territory and created their own blockades, preventing Wet'suwet'en and their supporters from accessing the camp with essential supplies. From 6th February, the Unist'ot'en camp was under siege.

Since RCMP's 'major enforcement operations' of the injunction against the Unist'ot'en on 10th February, a backlash of direct actions in solidarity with the Wet'suwet'en has exploded across Canada. Rail and road blockades were undertaken by supporters in Vaughan; by Tyendinga Mohawk near Belleville, Ontario; by Anishinaabe in Magnetawan territory; by Gitxsan land defenders in New Hazelton; and by land defenders in unceded Kwikwetlem territory, Metro Vancouver.

On 17th February, demonstrators blocked access along the US border at the Niagara falls bridge. Most of these blockades have now ended, but the Mohawk blockade continues, as they demand that no trains cross their territory until the RCMP leave Wet'suwet'en territory. The Ontario police liaison tried to offer gifts of maple syrup to the land defenders, in combination with the threat of enforcing an injunction that has been ruled over them.

'Resistance in their struggle against colonial dispossession and fossil capital has been reoccupation of their ancestral lands'

Between these blockades of shipping, rail, road, and occupations of government buildings across the country, a huge amount of political and economic pressure has been placed on John Horgan, premier of British Columbia, and the coloniser establishment more generally. As mass movements go, this one has seen a relatively small number of people achieve mass disruption through their solidarity. In the face of severe police repression, this should be recognised for the huge achievement that it is in the struggle against colonial violence and fossil capital in Canada.

'We are not protestors' – The politics of land, planet, and the rule of law

'We're not a protest camp; this is our home. And they are coming to invade my home today, and that gate is my door. In

Armed RCMP officers with dogs stand on Unist'ot'en lands, while officers remove red dresses used in the ceremony.

2019 we saw violence at the hands of the police, where they used brutal force, and we saw this morning they are wearing tactical gear… we are willing to face that violence in order to expose the RCMP for who they really are.'
Chief Howihkat (Freda Huson)

A key aspect of the politics of the Unist'ot'en land defenders is their position in relation to the land they occupy: while the courts and mainstream press in Canada describe them as protestors occupying land scheduled for pipeline use, the Unist'ot'en insist that they are First Nations making use of land held in common by their house group, as they have done since before the colonisation of British Columbia.

The Unist'ot'en camp website does articulate a climate politics, rejecting the touted economic benefits of pipelines bringing jobs to indigenous lands: 'there are no jobs on a dead planet'. However, concerns about fossil capital and emissions are secondary to the twin issues of colonial dispossession and ruination of the local environment which are the key concerns of the 'no pipelines' campaign being fought by the Unist'ot'en. In fact, Wet'suwet'en Hereditary chiefs proposed an alternative, less destructive route for the pipeline which also travelled through their lands but along already-disturbed areas, avoiding the salmon spawning areas that the Wet'suwet'en rely on. This route was dismissed by Coastal GasLink as too costly and impractical. The Unist'ot'en camp is not protesting a government policy of investment in destructive fossil fuels: it exists in the struggle against the ongoing mechanisms of genocide and dispossession against indigenous peoples in North America.

The recent explosion of action in solidarity with the Wet'suwet'en has complicated the politics of land defence in a way which is already being exploited by pipeline-backers. Amongst a coalition of First Nations, supporters of indigenous land rights, and anti-fracking environmentalists, there is a range of priorities at stake. The charge levelled against them is the same charge that the courts levelled against the Wet'suwet'en: that they are using the concept of Aboriginal Title as a political counter to advance a radical environmentalist politics. Some members of the elected band councils (the semi-democratic system of governance established by the Indian Act) who consented to the Coastal GasLink pipeline have spoken up about the wealth being brought to indigenous communities by the pipelines and the risk of inflamed tensions bringing harm. At this stage, conservative and liberal interests can seek to co-opt the aesthetic of indigenous solidarity by claiming the Unist'ot'en and their allies are acting without mandate against the interests of First Nations across Canada. These commentaries are without material analysis of what is at stake and seek to downplay the contradictions of colonial jurisdiction in Canada which may now face a reckoning.

Responses so far

The politics of the land defenders amounts to a rejection of the totalising tendency of capitalism, and for this reason, right-wing commentators are calling the Wet'suwet'en and their supporters 'illegals' and describing their actions as an 'insurrection'. This is not only due to the scale of disruption caused by direct action but also due to the pressure that Wet'suwet'en claims put on the contradictions which underpin the Canadian state's attempt to force through the interests of fossil capital with little legal justification.

Justin Trudeau recently said 'We recognise the important democratic right – and will always defend it – of peaceful protest. But we are also a country of the rule of law, and we need to make sure those laws are respected'. In the legal context as it stands, this amounts to a statement that Canada is a country of settler-colonial dominion which needs to make sure that that dominion is respected.

One of the most overlooked aspects of the Canadian government's behaviour in all this is its championing of the rights of fossil capital. Most reporting takes it for granted that there are certain laws which the state must uphold in order to be consistent with itself. This has been shown to be untrue, as the provincial government is, in fact, ignoring important sections of Canadian Law, as well as the United Nations Committee on the Elimination of Racial Discrimination which has urged it to change course.

Those who accept that the government prioritises the needs of business wherever it can often make the tacit assumption that the government must be acting to safeguard the economy. However, economic research suggests that the massive drop in natural gas prices in the US and Asia over the past two years will render the Coastal GasLink project a huge waste of public money, and possibly even a stranded asset, as green energy prices move to undercut the fossil fuel industry. Allowing this construction to continue during the present global health crisis demonstrates further commitment to allowing the corporate interests behind Coastal GasLink to have their way, despite fresh risks to inhabitants of Wet'suwet'en territory and even to their own workers.

It recently came to light that corporate lobbyists sought to effectively abolish Aboriginal Title by pushing for the government to adopt a 'cede and surrender' approach to indigenous lands. This points to an even more malicious tendency than basic profiteering: an ongoing ideological commitment to the mechanisms of colonial control and resource extraction, regardless of the prospect for sustainable profit. This commitment requires the eradication of dissenting groups, especially where land use is concerned. It is a truth self-evident to those who experience colonial violence but impossible for Canadian civil society to accept: reconciliation is dead.

Charlie Powell is a freelance journalist and rank and file activist in both the IWGB Union and the London Renters Union. This article is adapted from a previous version published by RS21 on 17th February 2020: www.rs21.org.uk/2020/02/17/solidarity-with-the-wetsuweten. For more information about the legal situation of First Nations in Canada, visit First Peoples Law at www.firstpeopleslaw.com


"Intentional Homelessness= Not a thing
NO more

Enacting 'intentional homelessness'

Simon Mullings considers who and what might be the operative causes of homelessness

In 1977 the Callaghan Labour government created new duties on local authorities to provide housing assistance to homeless people. Right from the outset the law contained provisions to prevent those considered unworthy of assistance from being housed. The section dealing with 'intentional homelessness' in the Housing (Homeless Persons) Act 1977 survives intact today:

'A person becomes homeless intentionally if he deliberately does or fails to do anything in consequence of which he ceases to occupy accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.'

The purpose of the 'intentional' homelessness provision was both practical and performative. The stated practical intention was to prevent people from benefitting from homelessness law by losing or leaving accommodation when they did not have to. The additional, performative purpose was to signal to sections of the public that assistance would not be afforded to those deemed 'undeserving'. Most decisions about 'intentional homelessness' concern anti-social behaviour or rent arrears. These disputes are not immune from the sort of vacuous moral judgements about large flat screen TVs and smashed avocado breakfasts that are now so wearyingly familiar.

Hansard tells us that during the Parliamentary debate there was opposition to the intentional homelessness provisions both in principle and in the detail of the wording, not least from Haldane Society vice-president Lord Gifford QC. The amendments that Gifford proposed would still be valuable today, but the overall importance of the legislation meant that nobody was willing to put the 1977 Bill in danger.

The debates show that despite the efforts of Gifford and others, the government was determined to exclude those who would 'buck the system'. In their eyes, a homeless person who bucked the system was one who pushed their way to the top of the housing list for permanent council accommodation when they did not 'need' or 'deserve' it. Without such a provision, a homeless person in 1977 would easily reach the top of the list for permanent council accommodation. That is not the case today. From 1980 onwards the top prize in homelessness duties became far less valuable.

The Housing Act 1980 came into force on 3rd October that year, bringing with it the right to buy. The Conservative Party manifesto of 1979 had explicitly set out the intention to sell as many council houses as possible at a discount ranging from 33 to 50 per cent depending on the length of the tenancy on the one hand, and 'reviving' the private rented sector with the introduction of shorthold tenancy on the other.

Since its inception, over two million social housing units have been sold under right to buy at an average discount of 44 per cent. We know that around one third of those are now being let by private landlords, and that a large amount of these are being funded by housing benefit or Universal Credit. It is reasonable to assume that in a couple of hundred thousand cases at least, a lot of public money is now being paid to a private individual or company to subsidise an asset that was formerly owned by the public, and sold at an undervalue of on average just under one half.

This is state-instigated public asset stripping on a national scale. And the imbalance it has created is shocking: on the one hand councils have lost two million badly needed homes and the rental income that went with them; on the other the (now) private assets are leveraging a further drain on public funds as housing benefits are funnelled to a rentier class.

'Families' we were told, 'would like to buy their own homes'. But to demonstrate the perversion of the regime, I must reluctantly introduce Mr Charles Gow. Gow, the *Daily Mirror* reported in 2013, has been the proud owner of at least 40 ex-council houses. He is the son of Ian Gow, Margaret Thatcher's housing minister between June 1983 and September 1985.

Even worse is that receipts from the already heavily discounted sales were prevented from being reinvested in full in more publicly owned affordable housing. It is this startling fact that characterises the right to buy as, in part, an ideological project to break down the social cohesion of certain communities. After last year's dismaying general election results, particularly in the north of England, it is not necessary to hammer home this history's political importance.

The privatisation of housing marched on. From 1st April 1986 the Housing Act 1985 re-enacted intentional homelessness law and further entrenched the right to buy. Then, from 15th January 1989 the Housing Act 1988 made good on the 1979 manifesto pledge and started the process of doing away with security and rent protection in private tenancies. The Housing Act 1996, which came into force on 28th February 1997, was a last-gasp Act of the Major government to nail down the coffin of private sector security of tenure and rent control. Homelessness law was again re-enacted with the intentional homelessness provisions preserved. Continuing the transfer of housing assets to private ownership, the right to acquire housing association >>>

Picture: Jess Hurd / reportdigital.co.uk

'A piece of cynical state theatre to perpetrate the narrative that the "undeserving poor" are not getting their hands on hard-working people's taxes.'

>>> accommodation was also introduced.

Then, by the Homelessness Act 2002, Housing and Regeneration Act 2008, Localism Act 2011, and, in a different kind of way, Homelessness Reduction Act 2017, successive governments (of different colours but argued by many to be of a similar nature) started to make assured shorthold tenancies (ASTs) the main way for councils to discharge homelessness duties. Keeping in mind the phrase '*intentional* homelessness', it is worth reflecting that the end of an AST is the most prevalent cause of applications to local authorities for homelessness assistance. That provision of ASTs is the main way in which councils are now incentivised to discharge their homelessness duties suggests that poison is being administered as if it were a cure.

In all this time the provisions regarding intentional homelessness have remained virtually unchanged through three re-enactments. The only change is that the original practical purpose of the provision, to prevent housing list queue-jumping, has disappeared along with so much of the council-owned accommodation that was worth queuing for. However, the performative aspect persists: the purpose of enacting 'intentional homelessness' legislation was and remains a piece of cynical state theatre to perpetrate the narrative that the 'undeserving poor' are not getting their hands on hard-working people's taxes.

An ever-diminishing supply of affordable council and housing association accommodation on the one hand and an increase in short term private rented accommodation with no rent control on the other. That is the recent history of British housing. But what is the economics that underpins it? Doubtless, readers of *SL* will understand the theory much better than me, but consulting Investopedia is helpful:

'In pricing theory, the scarcity principle suggests that the price for a scarce good should rise until an equilibrium is reached between supply and demand. However, this would result in the restricted exclusion of the good only to those who can afford it. If the scarce resource happens to be grain, for instance, individuals will not be able to attain their basic needs.'

Supply of affordable accommodation decreases and, as night follows day, rents increase. And as we have seen, there is no statutory lever to mitigate this situation, only Adam Smith's 'invisible hand of the market'. (Although Smith himself was surprisingly vitriolic about landlords.)

I suggest that the invisible hand is otherwise engaged in the service of those exploiting the right to buy rather than those adversely affected by it.

But why does the market fail? Simply put, because there is no incentive and no compulsion to make accommodation affordable. Scarcity helps to drive up prices. Homelessness is the result.

In this light, the visibility of the homelessness crisis can be thought of as a sinister advertising campaign. What is being advertised? Toothpaste adverts show plaque and tooth decay and what you need to buy to avoid them. The message of a housing and homelessness crisis is, 'rent and house prices might be exorbitant and bear no relation to wages (never mind benefit levels), but you should pay because look at the alternative… scary, isn't it?'

Those caught in the housing crisis participate against their will in a campaign for the benefit of property-asset owners and their agents to keep rents and property prices high in the face of dwindling incomes and runaway inequality.

The scarcity of affordable accommodation, and the proliferation of unaffordable private accommodation, requires people to accept accommodation which they cannot afford. They are then found to be intentionally homeless for not meeting the rent.

So, do we suggest there is a conspiracy to create homelessness intentionally? Remember the law on intentional homelessness (quoted above). It does not take much semantical work to reframe the argument:

'The government intentionally causes homelessness if it deliberately does or fails to do anything in consequence of which it ceases to ensure access to accommodation which is available for the population's occupation and which it would have been reasonable for the population to continue to occupy.'

Where does hope lie? Many housing lawyers increasingly look to Wales, where housing law is a devolved matter, for some progressive housing policy. The Senedd has enacted two measures

Picture: Jess Hurd / reportdigital.co.uk

which at least show recognition of the problem I have tried to outline – and they have done so in a sort of mirror image to Westminster's policymaking. From 26th January 2019 Wales abolished the right to buy. Less than year later, on 2nd December 2019, section 75 (3) of the Housing (Wales) Act 2014 abolished intentional homelessness in Wales for families and young people.

These are baby steps and still hugely inadequate to meet the crisis of housing and homelessness. But these two measures at least point towards two important things: firstly, an understanding of what causes homelessness; and secondly, an understanding sorely lacking in Westminster, that if governments have the will then they also have the means. If the Senedd is connecting the dots in the way I have suggested, then it is to be applauded, emulated, and further encouraged in its progressive approach to the housing crisis.

'If all we are doing [by enacting the Housing Act 1977] is a little bit of window-dressing – that is, making it appear that we are expressing a great deal of concern for the homeless and exhorting local authorities to recognise their responsibility – then the present wording can stay. But, if we really want to help the people who are at present being turned away by local authorities, it is my submission to the Committee that this reference to intentional homelessness has to be omitted.' – Haldane Society vice-president Lord Gifford QC (*Hansard*, 1977).

Simon Mullings is a housing law caseworker at Edwards Duthie Shamash Solicitors, co-chair of Housing Law Practitioners Association and a member of campaigning group Justice Alliance. This article is adapted from his presentation at the 2019 RebLaw conference.

Israeli lawyer Lea Tsemel.

Go-to lawyer and a hero

Film: *Advocate* Directed by Rachel Leah Jones & Philippe Bellaïche, starring Lea Tsemel, 2019, 108 mins

The documentary film *Advocate* centres on the Israeli lawyer Lea Tsemel. Since the early 1970s she has made it her mission to defend Palestinians in Israeli courts, from socialists and fundamentalists, to non-violent demonstrators and armed militants. For many Israelis, her job of defending Palestinians as they struggle against Israeli occupation, is indefensible. For many fighting against occupation she is the go-to lawyer and a hero.

This film has been given numerous awards including: Winner, Best Israeli film at DocAviv Festival; Winner, Jury Prize at Hong Kong International Film Festival; Winner, Golden Alexander Thessoloniki Documentary Film Festival. The film was also short-listed at the Oscars this year. Sadly it did not have the widest distribution, but I was fortunate enough to catch it on the BBC's *iplayer*. This documentary, directed by Rachel Leah Jones and Philippe Bellaïche, is a must-see and as a public interest lawyer I found it was inspirational.

'For many Israelis, her job of defending Palestinians as they struggle against Israeli occupation, is indefensible.'

Advocate follows Tsemel's caseload in real-time examining two particular cases that highlight her dedication to defending Palestinians charged with terrorist acts. It is an absorbing legal, procedural drama that holds a firm narrative as it expands into searching questions over the Israeli-Palestinian divide and spans over 50 years of occupation. Flashbacks are used to illustrate

'It is an absorbing, procedural, legal drama that holds a firm narrative as it expands into searching questions over the Israeli-Palestinian divide and over 50 years of occupation.'

how her principles were formed, how her socialist ideals developed and ultimately how she became a lawyer. It is an engrossing film which provides insight into a gripping legal process despite there being no actual access to the courts where Tselem does battle.

One case includes the high-profile trial of a 13-year-old Palestinian boy, accused of murder after shown to attack an Israeli with a knife. The boy did not use the knife, and indeed the attack was carried out by an associate, who was then later shot by soldiers from the Israeli Defence Force. The surviving boy is her youngest client to date. The film takes you through the attack, subsequent questioning of the boy, and shows Tselem pulling together a legal strategy to counter the obvious difficulties.

Another high-profile case is a woman accused of attempting to carry out a suicide bombing. The woman survives, and what becomes clear during the course of Tsemel's defence is that the woman was escaping a violent relationship and actually only intended to kill herself. She is charged with terrorism related offences and given 13 years – even though nobody was killed or indeed even injured.

Advocate interweaves these ongoing cases by examining Tselem's landmark cases and considering the professional and particularly the political significance of her work. It shows her student radicalism, her socialist political development and focuses on her greatest legal achievement of her career: a 1999 Supreme Court verdict that banned the Israeli secret service from using torture in the interrogation of detainees. Although, as a fellow lawyer dolefully retorts, the Israeli Defence Forces have probably found subtler ways to torture Palestinian detainees. Even Tselem, who has the staying power of a prize boxer, notes: 'For us, a victory is one year deducted from a five-year sentence'. Her job seems like a thankless task, but it is not hard to be inspired by her tenacity and vigour – this despite the fact that she is 70-years-old!

The film also has a number of telling insights from her close family. Interviews with Tsemel's husband, the anti-Zionist campaigner Michel Warschawski, as well as her now grown-up children, show how being a determined champion of other people's rights has come at the cost of her own family life.

'Do you know what it's like to have an 800-page legal file in the bed between you?' quips Warschawski, whom Tsemel has defended in court as a result of accusations that he was a sympathiser of the Popular Front for the Liberation of Palestine.

Her son Nissan reports slightly less cheerfully about both his parents' crusading, saying at one point, 'If I saw these characters in a documentary, I'd say, wow, how brave.' The 'but' is not said but is left hanging in the air. Tsemel's tough demands on her family and co-workers alike are always in view.

The documentary follows the daily battles, preparations and negotiations for the unseen trials, and provides a compassionate and sharp interest in legal nitty-gritty. The Palestinians who are in court are innovatively protected by the use of a split screen that leaves half of the frame in a monochrome animation, which maybe symbolicalisse how the media sees the cases in black and white.

This is not a documentary as hero worship but a full and complex study of complicated heroism. *Advocate* is detailed, it is personal, and ultimately inspiring.

Paul Heron

A Marxism for millennials that delivers

Riding for Deliveroo: Resistance in the New Economy by Callum Cant (@CallumCant1), Polity Press, October 2019

"What Cant knows and thinks about Marxism are worth knowing and thinking..."

The first thing that strikes you about *Riding for Deliveroo* is that the author is not a Deliveroo-rider-turned-political-writer, but the opposite. Callum Cant was already writing about industrial action against the company for Novara Media in 2016 when he downloaded the app and joined his local workforce. For that reason the book can feel a little voyeuristic and contrived – sometimes there is a sense that Deliveroo is just a vehicle for Cant to say "here are all the things that I know and think about Marxism".

Having said that, it's not clear whether it's a valid criticism at all. The explicit aim was not to paint Cant as an organic intellectual emerging from the workforce, but to create a worker's inquiry in the Italian tradition – to foster a class consciousness among riders and other 'sharing economy' workers by documenting their conditions and struggles, with the longer-term aim of resisting their dangerous and oppressive working conditions.

Given that aim, Cant deserves praise for his delivery (pun, as always, intended). What he knows and thinks about Marxism are worth knowing and thinking, and he presents some of the essential arguments about class conflict in the 21st century very engagingly. He helps us to understand what's genuinely new about this form of working (not the exploitation of workers, not the over-supply of labour power to benefit the company and to lower wages, but the experimental alterations to the methods of worker control) and what's just mutton dressed as lamb – old class conflicts rehashed for the app generation.

He makes these themes brilliantly accessible. The concept of capital as a social relation, for example is demonstrated through assessing the claim that Deliveroo drivers own their means of subsistence – they do, but only in the most shallow and meaningless way. Marx, by contrast, discusses this social relation by reference to an obscure colonialist factory owner in the very last chapter of *Capital* volume I.

The book changes pace and theme very quickly. One moment we're treated to a potted history of militant unionism or the legal framework of the gig economy, the next we're in the thick of a flying picket of cycle couriers (these contemporary accounts of strikes and protests, in particular, are powerfully stirring).

For such a short and erratic work, the arguments are compelling and well-presented. Cant tears into progressive liberal thinking, and into those tempted by the idea of improving capitalism: anything but socialism is just "a desperate plea to everyone to be nice to each other". The analysis is also surprisingly rich – for example there's an excellent critique of co-ops, which (once established) are simply doomed to compete with their privately-owned adversaries.

Cant is conscious that the industry has a serious problem of excluding women workers (he estimates the ratio as 15:1), and that his analysis is weaker because of it. But he doesn't seem to have made a great deal of effort to seek out women's voices to make up for that (and there was ample opportunity, as he draws parallels with McStrike and actions against Wetherspoons). The analysis is also little light on issues such as sectoral bargaining (which is disappointing, given the prevalence of the IER's ideas in the run-up to the 2019 election).

If Cant has simply chosen *Deliveroo* as a device for writing about political economy he couldn't have chosen better. It's Marxism for consumption by the millennial generation – quick, low-effort, and delivered to us by an over-burdened and precarious part-time worker.

Nick Bano

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