



STOP RACIST SCAPEGOATING

Defend immigrants





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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. The list of the current executive, elected at the AGM on 14th November 2013 is as follows:

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Special thanks to Liz Davies, Rheian Davies, Michael Goold, Stephen Knight, Declan Owens, and Shanti Sivakumaran

Cover picture: Jess Hurd

Print: The Russell Press (www.russellpress.com)

ISSN 09 54 3635



Picture: Jess Hurd / reportdigital.co.uk



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Pressing need

The Haldane Society is not affiliated to any political party. But since we are socialists, self-evidently we don't support the Conservatives or Ukip.

The results of May's European elections, meticulously analysed by Siobhán Lloyd, have frightening implications. There was a popular vote for racist parties: in Denmark, Italy, Hungary, Greece, the Netherlands, and of course in France and in the United Kingdom. Ukip claims not to be a racist party, although it admits that some of its prominent members have made racist remarks, but it trades on the politics of fear and opposition to foreigners.

Ukip's success is unlikely to be replicated in the UK 2015 general election, where there will be a higher turn-out, voters are voting for Government and the election is by first-past-the-post. However, its real impact is more subtle: the three mainstream political parties are moving right-wards on immigration. None are prepared to denounce Ukip and all claim that the previous Labour Government and the current coalition Government are too soft on migrants. 'Migrants', along with benefit claimants, are the new bogey-men.

The undercurrent of official racism is growing. Vans pronouncing that migrants should 'go home' were reminiscent of racist demonstrations in the 1960s and 1970s when people from the Caribbean or the Asian sub-continent were told to 'go home'. I write this as the Birmingham 'Trojan Horse' affair has been unfolding: where the local Muslim community is accused of conspiring to undermine society through education, which is not too dissimilar to anti-semitic conspiracy theories from the past. The Immigration Act 2014, requiring landlords to check the immigration status of their tenants, reminds us of the notorious 'no blacks, no Irish' notices, and co-opts private individuals and companies into policing the country's borders. Frightening times.

There are reasons to be cheerful. The left did well in Greece and Spain, although you would have barely known that from the British press and mainstream media. Greece and Spain have been at the sharp end of neo-liberal austerity policies. Ukip's 27.5 per cent share of the vote was on a turn-out of 34.19 per cent. In rough figures this translates as one-twelfth of the electorate having voted Ukip.

Needless to say, that suggests that a far larger percentage of the electorate is opposed to Ukip, so the mainstream political parties are wrong to panic.

It is important that Ukip is not seen as mainstream or an indicator of popular opinion. There is a pressing need for a broad, popular campaign that marginalises Ukip and welcomes migration.

Two years ago, the Haldane Society hosted a conference on 'Defending Human Rights Defenders'. We have set up a specific website since the conference took place: <http://haldane-dbrd.org>. We are working hard to develop it, so that it provides up-to-date information on struggles by human rights defenders globally and particularly in those countries where we support comrades fighting for human rights.

Our comrade Selçuk Kozağaçlı, president of the Progressive Lawyers' Association (ÇHD) in Turkey, was detained by the Turkish authorities from January 2013 until March 2014, along with other lawyers, on trumped up accusations of terrorism. In May 2014, European Lawyers for Democracy and Human Rights awarded Selçuk Kozağaçlı the Hans Litten prize at a ceremony in Berlin for his commitment to struggling for human rights. We were outraged to learn that, after the Suma mine disaster in Turkey, Selçuk Kozağaçlı and other lawyers were again detained and ill-treated.

Recent issues of *Socialist Lawyer* have contained poetry and art; something of a leap for a lawyers' magazine. In this issue, *The Firmament*, by David Ravelo, is particularly poignant. David is a journalist and human rights defender in Colombia. He has been imprisoned since 2010, spending two years awaiting trial and now serving an 18-year sentence following an unfair conviction. The Haldane Society has been supporting his case and will continue to lobby until he is released.

There has been good news and sad news since the last issue of *Socialist Lawyer* went to press. Kate Markus QC, former Haldane chair and then vice-president, has been appointed an Upper Tribunal Judge and so steps down from her position. The Haldane Society wishes her well. This issue would not be complete without our mourning the loss of two fine comrades and stalwarts of the labour movement: Tony Benn and Bob Crow.

Liz Davies Chair, lizdavies@riseup.net



Bob Crow. Trade unionist, socialist, comrade. 13th June 1961 – 11th March 2014

The Haldane Society of Socialist Lawyers is shocked and deeply saddened by the death of Bob Crow, who was the General Secretary of the National Union of Rail, Maritime and Transport Workers (RMT) from 2002 to 2014.

The outpouring of grief, sadness and solidarity in response to his death confirms the major impact he had as a trade union leader – one of the best known – for his steadfast approach to standing up for his members and advancing the ideas of socialism. Bob Crow had enormous respect and support, among both RMT members and trade union members in general, for his uncompromising position of fighting in the interests of rail workers, for calling for the re-nationalisation of the railways, and for the pride with which he called himself a socialist.

With Bob Crow in the leadership of the RMT, membership had grown from 50,000 to just over 80,000. Ken Livingstone is correct when he says that the only working-class people who still have well-paid jobs in London are RMT members. Manuel Cortes, general secretary of the Transport Salaried Staffs' Association union, said: 'Bob Crow was admired by his

members and feared by his employers, which is exactly how he liked it.'

If there were more trade union militants like Bob Crow, the battle to stop the cuts and kick out the Coalition Government would be at a much more advanced stage.

Our thoughts are with his family, friends, comrades and RMT members.

Paul Heron



A great loss...

Manchester declares war at vibrant conference

On 15th March 2014, the Manchester-based Access to Advice campaign organised a conference entitled 'Legal Justice Together: Call for Action'. The Haldane Society was a sponsoring organisation of the conference.

Jean Betteridge of Access to Advice welcomed over 120 delegates to the conference at the Mechanics' Institute – the birthplace of the TUC – who were in attendance from across the North West of England and also further afield.

The morning session commenced with an address by Mark George QC, which drew upon the recent strike action taken by criminal barristers and stressed the importance of continuing to generalise the resistance and fight back against what has been taking place in defence of legal services.

Delegates were encouraged to share experiences in smaller groups and were further addressed by Lord Low of the Low Commission and Steve Hynes, Director of the Legal Action Group, on the future of social welfare advice and legal support.

Workshops examined the impact of the April 2013 reforms

March

8: On International Women's Day, the Home Secretary, Theresa May, rolled out Clare's law (Domestic Violence Disclosure Scheme) – a scheme allowing police to disclose details of a partners' abusive past.

12: The Court of Appeal quashed an order obtained by the Attorney-General to veto a journalists' court case win to see secret letters written by Prince Charles to the Government. The court found that the Attorney-General had no legal or factual basis for the veto. The Guardian has been engaged in a battle to bring the letters into the public domain for nine years to illustrate how the Royal family influences Government ministers.

'We have to be above the law, sorry, within the law...' Former *News of the World* editor Rebekah Brooks in court.

'It is very hard to know why people go to them.' Tory welfare minister Lord Freud can't see why hungry people go to food banks

13: A second Irish woman speaks out regarding access to abortion in Ireland complaining that she was demeaned by doctors when she asked for an emergency abortion after learning her baby had a foetal abnormality. The Centre for Reproductive Rights has filed a petition with the United Nations Human Rights Committee on her behalf.

On the picket line

How bad have fees been?

in more detail, for example upon support in domestic violence cases and increased poverty associated the array of welfare reforms.

Consideration was given by others to the implications of the Immigration Bill and of the new residence test. Denise McDowell of the Greater Manchester Immigration Aid Unit later addressed the conference, placing the current campaigns around immigration controls within the history of struggle in the region.

Rhona Friedman of the Justice Alliance spoke of the importance of building and maintaining unity across a wide range of community organisations, advice providers and legal practitioners.

In concluding, the conference unanimously adopted the 'Manchester Declaration' calling *inter alia* for solidarity with criminal practices resisting the imminent fee cuts, information sharing, parliamentary lobbying regarding the civil legal aid changes and support for the Low Commission recommendations and their extension wherever possible.

Calls for political action in the local elections in May 2014, support for fringe meetings at the autumn party conferences and lobbying in the build up to the General Election in 2015 were also made.

A full report of this vibrant and positive conference including the 'Manchester Declaration' will be available in the near future on the website of the Greater Manchester Welfare Rights Advisers Group.

John Hobson

July 2014 marks the anniversary of the introduction of fees in the employment tribunal. Few people supported them before; fewer have a good word for them now.

From the perspective of claimants, there was always something unjust about making workers pay the burden of fees when it is employers who have the deeper pockets. The Government could easily have introduced a more balanced system, for example by making claimants pay an initial issuing fee, but placing the burden on employers to decide how far they contested a claim and making them pay a hearing fee where they wanted to fight.

Trade unions also had much to lose. The tradition has been that when a trade unionist brings a claim the union pays all the costs but the worker retains the full damages. In practice, most unions have tried to keep as much of this model as they could, either paying the fees themselves or providing loans to members but in any event asking that members who succeed in their claim seek to recoup their fees and repay them to the union. The potential liability to a trade union, should any significant proportion of its members bring claims, was considerable.

Most employers' organisations were sceptical about fees, presenting them as a blunt instrument which fell just as hard on deserving as on weaker claims. There was no real belief that workers' grievances would disappear just because they were stopped from bringing tribunal claims and considerable concerns that workers would seek alternative means of redress.

A year on, we know

what effect fees have had. Total claims are down by 63 per cent with group claims (typically equal pay and sex discrimination claims) down ever faster at 79 per cent.

Historically the claims which workers were most likely to win were on wages and discrimination, as the issues were simpler. It was possible for a tribunal to find for the worker without calling into question the whole running of a business. Wages claims in particular used to succeed, at least in part, in around two thirds of claims. Discrimination claims were harder to win. The effect of fees has been to obtain a much faster fall in wages and unfair dismissal claims, whereas other types of claims have held up better than the trend, race discrimination claims for example have fallen by 'only' 58 per cent. This is because fees have been set at such a high level that it makes no sense to bring an ordinary wages claim for example. The fee is just too high a proportion of the worker's potential winnings. Paradoxically therefore the claims which have seen the sharpest fall are the ones which workers were most likely to win. The policy has not discriminated against claims which are statistically weaker; rather it has discriminated against the strongest ones.

One of the Government's responses to criticisms was to introduce a 'fee remission' scheme when certain workers with low incomes and no capital would be eligible for partial or complete waiver of the tribunal fees. In the original consultation on fees, the Government estimated that 31 per cent of claimants would be eligible for fees.

After a question from Andy

Slaughter MP, the Shadow Justice Minister, the Government has announced that overall just five and a half per cent of claimants are securing the remission of their fees, either in full or in part.

The number of claims brought by trade unionists has held up far better than it has in the economy as a whole. Firms which specialise in union employment work describe a fall in the claims they issue of a mere five per cent or so, a picture which bears no comparison with the rest of the employment world.

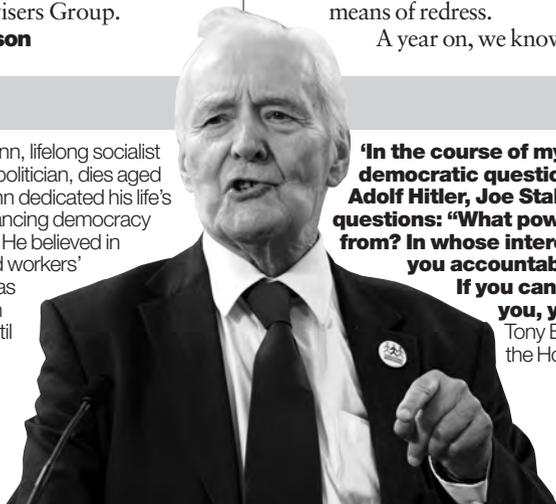
Is it a good thing if only trade unionists can afford to bring tribunal claims in the future; won't that encourage non-members to join unions?

Before fees were introduced, a few unions attempted to estimate how much they would have to pay if their members brought claims in the same numbers as before. The general estimate was that, at £1,300 for each dismissal or discrimination claim, fees would cost unions about 10 per cent of their total annual budgets. This figure is not for their legal budgets but their budgets for every service they provided. Few unions charge more than £150 per member per year in fees and with around one in 50 workers facing dismissal each year across industry it is not difficult to see that unions simply do not have the funds to litigate post-fees without taking other steps to restrict the number of their members who can sue.

If the Government had levied a one-off 10 per cent tax on all unions there would have been uproar. This is exactly what the policy has meant in practice but without the unions yet daring to protest on a scale necessary to make the law unworkable.

David Renton

14: Tony Benn, lifelong socialist and Labour politician, dies aged 88. Tony Benn dedicated his life's work to advancing democracy and equality. He believed in solidarity and workers' rights and was outspoken in his beliefs until the end.



'In the course of my life I have developed five little democratic questions. If one meets a powerful person – Adolf Hitler, Joe Stalin or Bill Gates – ask them five questions: "What power have you got? Where did you get it from? In whose interests do you exercise it? To whom are you accountable? And how can we get rid of you?" If you cannot get rid of the people who govern you, you do not live in a democratic system.'

Tony Benn, 22nd March 2001, final speech as MP in the House of Commons

20th March 2003: US missiles rained down on the Iraqi capital Baghdad this day eleven years ago as the US-led war against Iraq began. Bush and Blair's war and occupation killed over one million Iraqis.

European lawyers active – from Turkey to the Balkans

The European Lawyers for Democracy and Human Rights (ELDHR) together with the Haldane Society welcomed the release from prison on 21st March 2014 of lawyers in Turkey. They are members of our sister organisation ÇHD (Progressive Lawyers Association). They had been held in detention for 14 months facing unjust charges. ÇHD's president, Selçuk Kozağaçlı, said on his release:

'Thanks, thanks for all. In these 14 months we never felt alone, not even for a moment. We were so glad, that there were so many people, such a big support. We couldn't imagine. What a big family we are, what a big solidarity. We didn't recognise the prison sentence at all. For us, this was neither imprisonment and nor did we demand our release. We didn't recognise at all that it was a court that put us in jail. And we didn't even accept that the decision was an imprisonment. We never asked for release.'

Within two months of his release Selçuk was under attack again following the mining explosion at Soma on 13th May 2014 in which 301 miners died. On 17th May 2014, eight lawyers including Selçuk were assaulted and taken into custody in Soma. They were there to assist the survivors of the disaster and families. As part of its ongoing solidarity, an ELDHR statement on 20th May 2014 condemned the arrests of the lawyers, a statement adopted by the Haldane Society. Sadly the prosecution of these lawyers goes on.

On 17th May 2014, in the

building of the German Federal Bar Association in Litten Strasse in Berlin, the Hans Litten prize was awarded to Selçuk Kozağaçlı in his absence as he was not permitted to leave Turkey. As Nick Wrack reminded us during the awards ceremony, Hans Litten was a German lawyer who opposed the Nazis. In one famous trial he cross-examined Hitler for three hours. When the Nazis came to power he was sent to the concentration camps. He committed suicide in Dachau in 1938. In 1935, prisoners at the Lichtenburg camp were ordered to put on a performance to celebrate Hitler's birthday. Litten recited the song *Die Gedanken Sind Frei*, the significance of which was lost on the guards.

Three German lawyers, including ELDHR secretary general Thomas Schmidt, outlined their personal experience of observing the KCK trial in Diyarbakir, the KCK lawyers' trial in Istanbul, and the ÇHD lawyers' trial in Istanbul, all shocking miscarriages of justice.

Finally at the awards ceremony, Münip Ermiş, ÇHD vice president, spoke on 'The Right to Resistance –

the Role of Progressive Lawyers'.

Several Turkish colleagues were at the ELDHR executive committee meeting on 18th May 2014 in Berlin, also attended by representatives of ELDHR associations from the Basque Country, the UK, Germany, Greece, Spain, and Switzerland. The Basque lawyers' organisation Eskubideak has now been welcomed into ELDHR.

As always, the meeting started with a lively and engaged political discussion, and reports of intense activity from the ELDHR members. There were topics which divided opinion among those taking part in the discussion but ELDHR prides itself on its open debate.

The ELDHR conference 'Human Rights and Democracy in the Context of EU Enlargement – Western Balkan Perspectives', held on 6th June 2014 in Belgrade, was a great success. It was organised with the Belgrade associations Lawyers for Democracy and Lawyers Committee for Human Rights. The conference, with over 70 participants, focused on the topics of European Union enlargement and democracy, social rights and labour rights under threat in Europe, and freedom of assembly and the right to protest. Among the speakers from across Europe was the Haldane Society vice-president John Hendy QC.

Bill Bowring



With Rafael Studer, Sebastian Bannack, Rachiotis Yiannis and Elena Vazquez at Käthe-Kollwitz-Platz, Prenzlauer Berg, Berlin.



No Minister! The battle against the cuts in

March

27: A planned industrial action by criminal barristers over legal aid cuts was called off after the Ministry of Justice agreed to freeze cuts to advocacy fees until the general elections next year. Criminal solicitors and probation officers proceeded to walk out for two days from 31st March 2014 protesting against legal aid cuts and privatisation of offender rehabilitation services.

29: The first same-sex weddings take place after gay marriage was legalised through the passing of the Marriage (Same Sex Couples) Act 2013. Couples vied to be the first to be legally married at midnight the night before.

April

8: The European Court of Human Rights holds that the United Kingdom could lawfully impose limits on collective action and that a ban on secondary strike action was a justified interference to Article 11, the right to freedom of association. Some commentators have criticised the decision as a step to appease the UK Government following threats to withdraw from the European Convention on Human Rights.

9: The High Court orders the Home Secretary, Theresa May, to review a decision to freeze Government payments to asylum seekers for essential needs. Support for asylum seekers has been frozen since 2011. Single asylum seekers currently receive £36.62 per week and are prohibited from working until a decision has been made on their claim. Refugee Action welcomed the decision and called for a transparent and robust inquiry into how asylum support rates are calculated.



Pictures: Jess Hurd / reportdigital.co.uk

Acting in all our interests

In February 2014, the Haldane Society human rights lecture was delivered by Phil Shiner, vice-president of the Haldane Society and founder of Public Interest Lawyers (PIL). Phil discussed a number of issues relating to UK human rights violations in Afghanistan and Iraq, tracking litigation over a period of 10 years and addressing ground breaking cases such as *Al-Skeini*.

Al-Skeini was a case heard at the European Court of Human Rights in Strasbourg concerning the killing of six Iraqi civilians by British forces. The European Court of Human Rights found that the UK's obligations to the human rights Convention applied in Iraq and by failing to investigate abuses the UK had breached the Convention. Phil explained how the *Al-Skeini* decision was helpful in opening up our legal system to allow Iraqi civilians to come forward and seek justice. There are now hundreds of these cases where allegations have been made by

Iraqi civilians that they suffered human rights abuses by British forces. These abuses include unlawful killing, holding civilians in detention incommunicado and torture. Phil also discussed the case of Baha Mousa who had been tortured, abused, hooded and left to die with substantial injuries all over his body. Only one person was ever convicted in relation to his death.

Between 2003 and 2008, hundreds of Iraqi civilians were held in British custody and alleged they suffered human rights abuses at the hands of British forces. The evidence that corroborates these allegations includes videos of British interrogators using coercive techniques such as stress positions and degrading treatment including simulating anal and oral sex. We also learned about the increase in private military companies operating in combat zones and the increasing use of drones.

In January 2014, PIL and the Berlin-based European Centre >>>

'Labour is pro-business. You can't be anything but pro-business. We're as absolutely pro-business now as we were in the 1990s.' Labour MP and shadow business secretary Chuka Umunna.

16: The Al-Sweady Inquiry concludes hearing oral evidence into allegations that Iraqis were unlawfully killed, mutilated and/or mistreated in a British camp and detention facility. On 20th March 2014, a month before the hearings ended, the lawyers for the Iraqis – Public Interest Lawyers – withdrew allegations of murder and mutilation due to lack of evidence. The Chairman's report is expected to be published in the coming months.

'My military background has taught me that you must never let down the people who depend on you.' Tory MP for Newark Patrick Mercer resigns after being suspended for taking cash for questions.

30: The cross-party parliamentary Joint Committee on Human Rights publishes a report condemning Government reforms on judicial review and legal aid. The report found that there was a lack of evidence for the need for reform in judicial review and that there was insufficient parliamentary scrutiny of the legal aid changes.

>>> for Constitutional and Human Rights submitted an official complaint to the International Criminal Court (ICC) requesting the UK be investigated for war crimes. The ICC prosecutor has to consider whether the gravity threshold has been met to progress the complaint.

The complaint is a serious attempt to make those at the very top accountable for war crimes and human rights abuses. There cannot be impunity for acts of torture and killing of civilians with shoot to kill policies, there has to be accountability. Phil explained that 'this is not a stunt,' that 'there is masses of evidence' and the complaint is 'a serious attempt to nail the Secretaries of State for Defence, staff and people responsible for training the interrogators.'

Phil Shiner has been working on these cases for over the last 10 years and expects he will continue to do so for another 10. He described how he has been the subject of numerous personal attacks from the right wing press and has received death threats.

He and his colleagues at PIL refuse to be intimidated. They fight fearlessly for justice, for human rights and accountability within the UK Government and British armed forces. We are proud that Phil Shiner is one of our vice-presidents.

Since the lecture in February 2014, the prosecutor at the ICC has found that the gravity threshold has been met and has agreed to open the preliminary investigation into whether there were war crimes committed by the UK in Iraq. Proof in itself that the complaint submitted to the ICC is anything but a stunt.

Rebecca Harvey

Providing a supportive environment

The Haldane Society Feminist Lawyers network (HFL) is a sub-group of the Haldane Society of Socialist Lawyers. The group formed in 2013 following a resolution by the executive committee for its activities that year to focus on fighting the Government's cuts, privatisation, and the economic policies of austerity.

The housing crisis, the prevalence of zero hours contracts, and the cuts in legal aid are all side effects of an economic crisis in which women and other marginalised groups are disproportionately paying the price of austerity. It has been within this context that the group arose to staunchly stand in opposition to capitalism, sexism, rape culture, racism, and discrimination.

We seek to analyse the law and legal systems from a socialist and feminist perspective. We aim to give women and allies a friendly space to discuss these issues openly within a supportive environment, as well as give support and our solidarity to other groups which strive for equality and justice both in the UK and internationally.

Members of the HFL are of the opinion that because oppression does not occur in a vacuum, it can often be helpful to analyse legal and social problems through the approach of intersectional feminism, i.e. feminism which discusses the ways in which racism, sexism, homophobia, transphobia, ableism, xenophobia, classism, and other forms of oppression are interconnected, on

the principle that one cannot examine one form of oppression in isolation from the other.

In spring 2013, the HFL organised as part of the Haldane Human Rights Lecture Series a lecture entitled 'Trafficking: Law and Politics', which heard from Jamila Duncan-Bosu, a solicitor at the Anti-Trafficking and Labour Exploitation Unit, and Kate Roberts, a community advocate at Kalayaan. Kate Roberts is also a campaigner for domestic migrant workers. This lecture focused on the vulnerable legal status of domestic workers. There was analysis of the remedies in law that need to be utilised and further developed so as to ensure legal protections and the most basic of employment rights.

In autumn 2013, the HFL ran a reading group. Our first text, *Eve Was Framed*, is written by one of the Vice Presidents of the Haldane Society, Baroness Helena Kennedy QC, and examines chiefly how women are treated unequally by a legal system which houses social biases. This reading group

encourages open discussions and is group-led. We will continue this reading group in autumn 2014.

The HFL organised another human rights lecture, which featured family law barrister Elizabeth Woodcraft and Professor Alison Diduck of University College London who spoke on the topic of 'How to Be a Feminist Lawyer'. The question of whether one could, in fact, be a feminist lawyer at all sparked an immensely passionate and engaging debate with both the speakers and the audience.

At our formal launch event in spring 2014, we defined our motivations and aims, including supporting women and marginalised groups, educating others regarding the shortfalls of the legal system, and campaigning for changes in both the law and in legal practice towards a more equal and decent society. We have also launched a Facebook group as a platform to share legal articles, start discussions, and promote the events and projects in the activist and legal community.

Our membership has grown steadily as the group approaches the end of its first year. Over the coming months we will be organising our second annual reading group, among other activities. We invite suggestions from members about how to expand our group and its activities.

Contact us by email at feminism@haldane.org or visit our Haldane Feminist Lawyers Facebook page to get involved.
Natalie Csengeri

Joanne Harris

The Haldane Society is sad to learn of the death of Her Honour Judge Joanne Harris. Joanne was a Haldane Society member from the beginning of her career. She was widely respected, particularly in her specialism of child-care law. We send our condolences to her family and friends.

Liz Davies

May

1: Judge Anthony Leonard QC stays the 'Operation Cotton' fraud trial, saying the defendants could not receive a fair trial owing to an absence of legal representation. Barristers refused work at new rates of remuneration creating another crisis for Justice Secretary Chris Grayling. The Court of Appeal later reversed the ruling.

2: The High Court finds that the Ministry of Defence breached English law, Afghan law, and international humanitarian law by allowing Afghans to be held beyond a 96-hour limit on British military bases.

2: Control orders against two men who were detained in Somaliland, allegedly beaten and subjected to a mock execution before being flown to the United Kingdom, are quashed. Lord Justice Kay criticised the High Court for hearing evidence behind closed doors so that the appellants and public were denied knowledge of the extent to which their case was accepted or rejected.

3: Haldane Society members attend the 40th birthday party of News from Nowhere – Liverpool's radical community bookshop. Held at the iconic Adelphi hotel, music and partying followed a conference earlier in the day entitled 'Liverpool – city of working class resistance' at which various campaigns including the struggle against the bedroom tax convened.

Cultural relations and Haldane lawyers

I am not the first lawyer to serve as president of the Society for Cooperation in Russian and Soviet Studies (SCRSS) and its predecessor the Society for Cultural Relations with the USSR (SCR), since the SCR was founded in 1924. This year is its 90th anniversary, writes **Bill Bowring**.

My lawyer predecessors included DN Pritt QC, who was chair of the SCR for 18 years from 1937 to 1955. A year later he became president, in which capacity he served for 16 years until his death in 1972 at the age of 84. John Platts-Mills QC (pictured) became president in July 1989 and served until his death in 2001. He was followed by the solicitor Jack Gaster, who died on 12th March 2007 at the age of 99.

The other presidents have been equally or more illustrious: the sociologist, Professor LT Hobhouse, was president for the first year of the SCR's existence; the Professor of English Lascelles Abercrombie served from 1926 to 1936; the historian Sir Charles Trevelyan from 1937 to 1951; the film-maker and trade unionist Ivor Montagu from 1972 to 1981; and the Labour politician Lord Jenkins of Putney from 1981 to 1989.

Is it complete coincidence that four out of nine presidents to date have been lawyers?

The answer is an emphatic 'no'. All four lawyers have been proud members of the Haldane Society of Socialist Lawyers, which was founded in 1929.

The Society was named after Viscount Richard Haldane, who, as a Liberal, had been Asquith's Lord Chancellor from 1912 to 1915. He was hounded out of office by *The Daily Mail*. He moved leftwards politically and was Labour's first Lord Chancellor in the short-lived government of 1924. By 1929, when Labour was elected again, Haldane himself was dead. A small group of barristers formed the Haldane Club to provide legal expertise to the Government, trade unions and the co-operative movement.



The barrister DN Pritt was a founder member of the Haldane Society. He was a member of the Labour party from 1918 and became a life-long defender of the Soviet Union. He was Labour MP for Hammersmith North from 1935 to 1940, when he was expelled from the Labour party for defending the Soviet invasion of Finland. He was thought by George Orwell to be 'perhaps the most effective pro-Soviet publicist in this country'. After 1940, he sat as an independent Labour member. At the 1945 Hammersmith North by-election

he was re-elected under that label, gaining a 63 per cent share of the vote, against the official Labour and Conservative candidates.

In 1949, he formed the Labour Independent Group with fellow barrister John Platts-Mills and Konni Zilliacus, who had both also been expelled from the Labour party for pro-Soviet sympathies.

John Platts-Mills joined the Labour party in 1936 and from 1945 to 1950 was Labour MP for Finsbury. In 1948, he was expelled from the Labour party, to which he was re-admitted in 1969. His memoir *Muck, Silk and Socialism: Recollections of a Left-wing*

Left: The late John Platts-Mills QC, long-standing Haldane member and one time SCRSS president.

Queen's Counsel, with a foreword by Tony Benn, was published in 2002.

The communist solicitor Jack Gaster joined the Independent Labour Party in 1926 and the Communist Party of Great Britain (CPGB) in 1935. He was a member until the CPGB was disbanded in 1991.

In December 1948, at the height of the Cold War, there was a split in the Haldane Society. Gerald Gardiner, who was later Labour Lord Chancellor, tabled a motion to disqualify from Haldane membership anyone 'who is a member of a political party other than the Labour party or of any body membership of which renders him [sic] ineligible for membership of the Labour party'. This was a direct attack on Communist party members and sympathisers within the Society. The motion was defeated at a highly charged annual general meeting.

The anti-communists walked away, forming the Society of Labour Lawyers, and the Haldane Society withdrew its affiliation to the Labour party. The Haldane Society has remained firmly socialist, but equally committed to independence from any political party.

Despite some turbulent times, including the Cold War and the collapse of the USSR, the SCR and latterly the SCRSS has survived. It continues in its work today. Bill Bowring is the Haldane Society's International Secretary. For more information on the SCRSS please visit www.scrss.org.uk.

9: Disgraced former cabinet member Chris Huhne is ordered to pay legal costs of £77,750 following his prosecution and conviction for perverting the course of justice. This did not prevent *The Guardian* handing him a column space as soon as he walked out of prison. Barrister and Judge Constance Briscoe was later convicted and imprisoned for her part in the affair.

12: The European Court of Human Rights finds that Turkey's invasion and occupation of the North of Cyprus in 1974 was illegal and has ordered the largest ever damages award for relatives of those who went missing in the conflict and for Greek speaking Cypriots who found themselves in the Turkish occupied territory.

14: The High Court grants permission for judicial review in a case brought against the Crown Prosecution Service following its decision to grant immunity to Prince Nasser bin Hamid Al Khalifa. The son of the ruler of Bahrain faces allegations of torture. The claimant says he was tortured during the pro-democracy uprising in 2011.

Congress success unites lawyers

On 15th April 2014, members of the Haldane Society attended the 18th Congress of the International Association of Democratic Lawyers (IADL), held at the Vrije Universiteit in Brussels.

The five day Congress, entitled 'Lawyering for People's Rights', gathered human rights defenders, lawyers and law students from 56 countries from across Africa, Asia, the Americas and Europe.

The purpose of the congress was to bring together different branches of the legal profession who dedicate their professional activity to the struggle for 'the complete realisation of all human rights, civil and political, social, economic and cultural', so as to discuss and share experiences of their own national issues and in so doing reinforce mutual international struggles.

The Congress opened with a welcome from Jan Buelens from Progress Lawyers Network, the Belgian lawyers' organisation responsible for much of the preparatory work leading up to and during the Congress. This was followed by a report from Jeanne Mirer, the indefatigable President of the IADL, regarding the organisation's work during the last five years since the previous Congress which took place in Hanoi, Vietnam.

The Plenum which followed the opening session, saw Samir Amin, Founder of the World Social Forum,

and Kumi Naidoo, International Executive Director of Greenpeace, both give inspiring talks on the 'Economic crisis and People's Rights' and 'The Right to a Clean and Healthy Environment' respectively. Raji Sourani, Director of the Palestinian Centre for Human Rights in Gaza, was due to also address the Congress on 'Palestine and Impunity for Violation of International Law and International Humanitarian Law', but was poignantly not able to attend due to the Israeli government's refusal to allow the Palestinian delegation to travel to Belgium. The South African lawyer Max Boqwana was asked to read out Mr Sourani's speech, which he concluded with a resounding shout of 'Viva Palestine!'

The two days that followed were dedicated to ten commissions covering the following topics:

- The human right to peace;
- Independence of the judiciary, protection of lawyers and democratic people's justice;
- Fighting for Labour and Trade Union Rights in the face of neo-liberal regimes;
- The Economic Crisis, Debt and Promoting a New Democratic International Economic Order;
- Ending Impunity for crimes and promoting international justice;
- Lawyering for the people;
- Rights of Migrants;
- Right to Health and to a clean environment in the face of global warming and climate change;
- Right to protest and to organise



National Union of Journalists members protested at the Egyptian Embassy in London in February, calling for the release of all detained journalists in Egypt and an end to the crack-down on media workers. Many have been killed, others, including Peter Greste, Mohamed Fadel Fahmy and Baher Mohamed of Al-Jazeera, have been detained in prison.

to achieve our indivisible human rights: Civil and Political, Economic Social and Cultural Rights;

- Struggle for equality and against all forms of discrimination.

The Haldane Society were actively involved in the commissions, submitting and presenting papers for four of these commissions, with reports covering topics including the state of legal aid in the UK and defending human rights defenders. Nick Bano gave an incisive talk on recent developments in case law on industrial relations concerning the UK. Richard Harvey of the Haldane Society's executive committee chaired the commission on the environment for which Declan Owens acted as *rapporteur*.

Haldane Society members also participated in the session which focussed on the work of young lawyers within the IADL for whom a network is now being set up.

The fourth day of the Congress saw the holding of the General Assembly of the IADL, which included the joining of new member organisations from Nepal, Colombia and Bangladesh. A new bureau was also constituted.

The final day of the Congress began with reports from each of the ten commissions, followed by the presentation, discussion and adoption of the inspirational closing declaration, whose purpose was to guide the organisation in its work over the next five years. The Congress then closed with touching tributes to deceased

May

29: The Independent Police Complaints Commission urges the Metropolitan police to prevent an officer resigning so that he can answer allegations of misconduct concerning the death in custody of Sean Rigg. The family of Mr Rigg announced that they were 'livid' about the resignation of PC Andrew Birks.

June

4: A Crown Court judge in Hull takes the unusual step of issuing a 'practice statement' in response to protests by solicitors in the region. He warned that a number of criminal defendants were 'involuntarily unrepresented' and that the protests against legal aid cuts were causing problems for the courts.

9: Sir James Munby, the most senior family judge in England and Wales, delivers a judgment asking the Ministry of Justice how a contact case can proceed when the father cannot get legal aid. The case was adjourned as the judge decided the case had reached an impasse.

12: The Court of Appeal overturns an attempt by the Crown Prosecution Service to hold a trial of two men accused of terrorism related offences entirely in secret. The opening and closing sections of the trial are now to be held in public. Lord Justice Gross says that the Court was not convinced of the need for the

Young Legal Aid Lawyers

This regular column is written by YLAL members. If you are interested in joining or supporting their work, please visit their website www.younglegalaidlawyers.org

Equal before the law?

The present Lord Chancellor is in a class of his own, because he is entirely miscast as Lord Chancellor. He would be perfectly cast in “House of Cards”... His legacy, I am sorry to say, is going to be bleak.

Damning words and unusually strong ones to have been uttered in the House of Lords. They were made by lawyer and Liberal Democrat Lord Lester of Herne Hill in the debate on legal aid ‘reform’ on 7th May 2014. His criticism, as you might guess, was directed at the Secretary of State for Justice, Chris Grayling.

The subject matter of the debate was the Civil Legal Aid (Remuneration) (Amendment) (No. 3) Regulations 2014, which came into force in April 2014. The regulations restrict legal aid for judicial review to those cases where permission to bring the claim is granted by the court. Since public bodies challenged in the courts will frequently recognise the weakness in their case and throw in the towel before this stage, the rule will mean that a proportion of important, merit worthy cases will no longer receive funding. The rigours of the change will be mitigated to an extent by the Legal Aid Agency retaining a discretion to grant funding in these cases. The financial uncertainty inherent in the new regime will provide little solace for law firms struggling to keep their business afloat. As Lord Pannick QC said, ‘nobody can proceed on the basis of a hope that the Lord Chancellor, in his discretion, may choose to make a payment’.

The consequence – as the senior judiciary warned in their response to the consultation that preceded the regulations – will be a ‘chilling effect’ on judicial review. Citizens will find it considerably harder to hold the State to account for unlawful acts unless, that is, they can afford to pay privately. That power should be wielded according to the law and that all should be equal before the law and able to avail themselves of its protection, are fundamental tenets of the rule of law. These latest regulations

offend against all three of these principles. And yet they have been pushed through by the politician who is constitutionally bound by section 1 of the Constitutional Reform Act 2005, to uphold the rule of law. In the circumstances Lord Lester’s ire is perhaps understandable.

Lord Lester is not the only prominent parliamentarian to express concern over Grayling’s reforming zeal. A week prior to the debate, the Joint Committee on Human Rights fired a shot across Grayling’s bows criticising his ‘energetic pursuit of reforms which place direct limits on the ability of the courts to hold the executive [to account]’ and expressing concern over the conflict of interests inherent in his twin role as Lord Chancellor bound by oath and statute to uphold the rule of law and defend the judiciary, and Government minister with a brief to cut the justice budget.

It had been thought that the reforms to the role of Lord Chancellor brought about by the Constitutional Reform Act 2005 might go some way toward easing these tensions. It might be said that those reforms have generated more problems than they have solved. Lord Lester, who championed the reforms at the time, expressed his regret in the recent legal aid debate that the reforms, which allow for the office to be held by a non-lawyer such as Grayling, have enabled the constitutional responsibilities of this venerable role to be cast off so lightly.

Would a lawyer be any better? Jack Straw was no champion of human rights or of legal aid when he was in the post, a fact acknowledged by Lord Lester who served Straw as an unpaid adviser ‘for some 18 fruitless months’. Likewise Ken Clarke, another barrister, did not hold back when he presided over the cuts contained in the Legal Aid Sentencing, Punishment of Offenders Act 2012, notwithstanding that this legislation stripped anyone of low to modest income of the ability to enforce their social rights in court. And Clarke’s early speeches in 2010, soon after the coalition came to power,

decrying the provision of legal aid to those who did not live in the UK, set the stage for Grayling’s abhorrent residence test four years later.

Restricting the role of the Lord Chancellor to politicians who are also lawyers is not a complete answer. Neither would it be an answer to restrict the role to lawyers who are not politicians. Such a solution would do away with the conflict inherent in the role, but it would also remove the political clout of the position, ending up with an independent champion of the rule of law who lacked any real power to defend it against political attacks.

A lateral solution might be to begrudgingly accept the political reality that from time to time we will have to put up with a Lord Chancellor who does not know of or care about our constitution, and focus instead on providing statutory protection for the rule of law itself. This would have been the effect of an amendment proposed by Labour during the committee stage debates on the Criminal Justice and Courts Bill.

The Bill, which embodies the remainder of the Government’s current attack on judicial review such as changes to the rules on Protective Costs Orders in public interest litigation and the cost liability of charities and NGOs who provide assistance to the courts by intervening in proceedings, is about to receive its third reading in the House of Commons. Labour’s amendment to the Bill would have prevented the Lord Chancellor from making any further cuts to legal aid for judicial review by way of secondary legislation. Such changes would have to be made by primary legislation instead thereby ensuring a commensurate level of parliamentary scrutiny. The amendment, regrettably, was voted down in the committee stage and does not form part of the Bill at this stage. The Bill will now pass to the House of Lords where it is to be hoped that those peers who do understand and value the rule of law will be waiting.

Connor Johnston is a barrister and the Co-Chairperson of Young Legal Aid Lawyers.



Picture: Jess Hurd / reportdigital.co.uk

members of the IADL, including president emeritus Nelson Mandela, messages of solidarity from other organisations and a speech from the re-elected president Jeanne Mirer.

The Congress was a clear success and the Haldane Society looks forward to working closely with the IADL and its member organisations in our fight to ‘lawyer for people’s rights’.

To read the documents mentioned above, including the papers submitted by the various national organisations and the final declaration, please visit <http://progresslawevents.net/> where you can find these along with more information regarding the Congress.

Carlos Orjuela

defendants to be anonymised and for their trial to be held entirely in secret. The application for an entirely secret trial was supported by the Home Secretary, Theresa May, and the Foreign Secretary, William Hague.



Picture: Jess Hurd / reportdigital.co.uk

Tony Benn, pictured in January 2012 at the US Embassy in London, on a Stop the War demonstration against an attack on Iran.

Liz Davies pays tribute to one of the giants of the British labour movement

Tony Benn, 1925 – 2014

“If we can find the money to kill people, we can find the money to help people”

Tony Benn was a friend to the Haldane Society, as he was to many socialist groups. He spoke most recently at our AGM in 2006, and received copies of *Socialist Lawyer*.

It was telling that Benn's political opponents from the 1980s could not bring themselves to speak well of him, even after his death. Denis Healey, who beat Benn by 0.8 per cent of the vote in 1981 to win the deputy leadership of the Labour Party, said Benn had been 'enormously damaging'. Shirley Williams and Polly Toynbee, founders of the SDP which became part of today's Liberal Democrat Party, asserted that he was out of touch and responsible for the 18 years of Tory Government between 1979 and 1997.

Ed Miliband, Margaret Beckett and others distanced themselves from Benn's politics, while paying tribute to his powers of oratory and his political principles. Surprisingly, tributes to Bob Crow even from establishment figures were warmer than those paid to Benn; yet Crow died just as the RMT was taking industrial action, and represented modern militant trade unionism.

Benn, who hated the idea that he had become a national treasure, would not have been surprised by old enemies re-fighting old battles. The venom directed at him reflected how significant the battle for control of the Labour Party in the late 1970s and early 1980s had been; and just how much the

establishment breathed a sigh of relief when Bennism was beaten back. The stakes were high.

Bennism was not just Tony Benn. In 1974, the miners had brought down the Conservative Government, led by Edward Heath, and Labour was elected under Harold Wilson. The Conservatives, terrified of industrial militancy, regrouped, elected Margaret Thatcher as leader and started to reject the post-war Keynesian consensus. The Labour Government struggled to cope with inflation and a run on the pound, and turned to the International Monetary Fund who imposed what we would now recognise as neo-liberal structural conditions as terms of its loan. The Labour Government brought in wage restraint and unemployment rose. Once Thatcher had been elected in 1979, the Labour Party had to decide whether its economic policy would be soft-Thatcherism, or full-scale radical socialism, including public ownership of the banks and other key industries, industrial democracy and workers' control, full employment and redistribution of wealth. The other key area of dispute was nuclear weapons: Healey and the right of the Labour Party were committed to retaining Britain's nuclear arms and membership of Nato, in other words to a foreign policy aligned to the interests of the United States of America. The left, led by Benn, called for unilateral nuclear disarmament, for

Britain to leave Nato and to pursue an independent non-aligned and anti-imperial foreign policy. Benn's commitment to women's liberation, black and ethnic minority rights and rights for lesbians and gay men was attacked by the right of the Labour Party as crazy and irresponsible. Now, of course, those views are shared by all parties except UKIP.

During the 1970s, radical activists from the left and from the trade union movement had joined the Labour Party. They started to demand that their Labour MPs represent them, local activists, rather than being the mouthpiece of the Party leadership. They called for the right to de-select an MP and for members to have a vote in the election of party leaders. Both of those demands were unheard of; now they are commonplace, even in the Conservative Party. Benn was the most high-profile politician articulating those demands, which the left saw as the key to changing Labour Party policy.

The 1981 deputy leadership election – between Benn and Healey – was the show-down. Everyone knew that the result would indicate the future direction of the party. Benn was vilified by the media, the Tory Party and leading members of the Labour Party in unimaginable terms: essentially portraying him as someone prepared to hand Britain over to the Soviet Union. Some senior members of the Labour Party had already left the party to >>>



The funeral of Tony Benn at Westminster, 27th March 2014.

Picture: Jess Hurd / reportdigital.co.uk

“We are not just here to manage capitalism but to change society and to define its finer values.”

>>> found the SDP and destabilise Labour. Others stayed in, precisely in order to vote for Healey, and subsequently joined the SDP. Most of the parliamentary Labour Party leadership went all out to undermine Benn. For Labour Party and trade union members, however, many of whom were also CND members demonstrating against cruise missiles and who were also gearing up to fight public spending cuts, Benn’s message resonated. ‘Benn for Deputy’ badges were worn at every Labour Party meeting. Despite falling ill halfway through the summer, he spoke over and over again at demonstrations, rallies, and party meetings. He lost the deputy leadership on the second ballot as a result of a handful of Tribune Group MPs abstaining. One of those abstainers was Neil Kinnock.

Healey’s victory opened the door for the right to attack policies voted through by the left. The 1983 election might have been different had not senior Labour Party figures spent a great deal of energy attacking the party’s own manifesto. Kinnock, elected Leader in 1983 after the general election, steered the party away from unilateral nuclear disarmament (which he had been personally committed to just a few years earlier), and failed to support the miners wholeheartedly. Kinnock in turn led to Blair and New Labour claiming, from Thatcher’s own words, that there was no alternative to neo-liberalism.

In so far as Labour in the 1980s was ‘unelectable’ (New Labour’s favourite mantra), it was due to the right turning on the party’s own policies, rather than portraying a united message. In local elections, the Labour Party frequently won. Ken Livingstone’s GLC, representing the same ‘loony left’ politics as Benn, was popular with Londoners. The GLC and Labour Councils were viciously attacked for pioneering equality politics, but it was their work that helped to change attitudes, particularly towards homophobia.

Even his detractors admit that Benn had oratorical skill and personal charm. Many *Socialist Lawyer* readers will have fond memories of his accounts of English radical history (the Levellers, the Chartists, the suffragettes), of his encounters with Gandhi, Ramsey MacDonald (‘he patted me on the head and gave me a chocolate biscuit’) and of the socialist train.

I treasure his personal solidarity. In 1995, when Blair blocked me from standing as Labour’s parliamentary candidate in Leeds North-East after I had been democratically selected by the local Labour Party, I briefly became the focus of media attention. By the time of Labour Party Conference, all the real decisions had been taken, the political fight was over, but Leeds North-East was given the chance to protest to Conference. Afterwards, I, with comrades from Leeds North-East,

Islington Labour Party, and elsewhere, gave a short statement to the press. I answered a few questions and thought that was it. But they would not let me go. We were surrounded and I have a memory of various journalists and photographers shouting, indeed howling, at me. Even experienced MPs including Jeremy Corbyn and Alan Simpson were taken aback. None of us knew what to do. Then Tony Benn pushed his way through the crowd, stood right in front of me, blocking the press’s view of me, and started to make jokes at the expense of the press. They were laughing and embarrassed and gradually let us go. Three years later, I was elected by Labour Party members onto the National Executive Committee, very much against the wishes of Blair. When the result was announced, Benn was one of the first people I wanted to tell. I found him, characteristically outside the Conference centre, addressing a demonstration. He had tears in his eyes as he hugged me, and filmed me on a small camera. Benn loved gadgets.

Too many people have been quick to say that they mourn his passing, but they were not Bennites. I have always been a Bennite and I mourn Benn’s passing precisely because I agreed with him.

Liz Davies is Chair of the Haldane Society of Socialist Lawyers

Mayday in Turkey

by Arın Gül Yeniaras, lawyer, Istanbul

On 1st May 2014, thousands of people gathered on the streets of Istanbul using their constitutionally protected rights for meeting and peaceful demonstration. The Workers' Day is also recognised by the Turkish Government which previously declared it as a national holiday in 2010.

Despite this lawful attempt to use their rights, 266 protestors were taken into custody, including three lawyers. More than 100 people were injured (pictured right, top and centre) because of tear gas canisters, water cannon and pepper spray, and many were beaten up by the police without any reason. People under custody were tortured and subjected to physical violence. The police continuously threatened these people during the custody period.

Two days later, as per the order of the prosecutors, 171 people were still being held at police headquarters on extended custody requests, an open violation of the Turkish Code of Criminal Procedure. The apparent reason for such request was the time-constraints to complete the legal process although it was finalised in accordance with the law hours ago.

A group of us, some 20 lawyers, decided to occupy Istanbul courthouse as a way to protest against this illegal custody extension and we said: 'We will not leave the courthouse until they bring our clients to the Court!' Then they started to bring our clients in groups. Up to

then they had refused to let us either see our clients or their documentation.

The statutory extended custody period ended at 3pm on 5th May. It was imperative for the prosecution to sign the release documents of the detainees at such time. But again they were denied release based on other arbitrary reasons. Lawyers' written objections were declined. In the evening, when the examinations were completed, we still had 18 clients in incarceration. After midnight (at 3am) the judge started the trial. At the end of a long struggle and joint efforts of those lawyers who stayed up for more than 48 hours under extreme hardship, all the detainees were freed at 6am. These 171 people were subject to inhuman treatment, under terrible conditions.

As a lawyer here I feel a great amount of police pressure during my voluntary efforts to assist people who have been subjected to unlawful use of police power. This situation does not only show an outrageous violation of human rights but also oppresses the undeniable right to defence under the international commitments of Turkey. The police officers at all levels believe that they have the right and power to frighten lawyers.

We will fight against all the unlawful actions and will defend human rights under any circumstances. I believe that right of defence is a must for human rights and solidarity is the only way for independent lawyers all around the world.



Picture: Jess Hurd / reportdigital.co.uk



Relatives and friends gather outside the Central Criminal Court during lawyers' occupation to demand due process for the 171 detained protesters.

Picture: Jess Hurd / reportdigital.co.uk

Brian Richardson

on the revelations
damaging the police

Lies, spies and cover-ups

2014 is gradually descending into something of an *annus horribilis* for the police service in England and Wales. As I write these words, delegates are congregating in Bournemouth for the annual Police Federation conference. It was not expected to be a happy gathering. Just days before the conference was due to begin, an independent report into the police union detailed a culture of bullying and unprofessional conduct. In addition it was suggested that the Federation is dysfunctional and secretive.

It was all meant to be so different. The year began with the Metropolitan Police Service (MPS) anxiously awaiting the outcome of the inquest into the death of Mark Duggan in Tottenham in August 2011. Readers of *Socialist Lawyer* will recall that in the aftermath of Duggan's death there were a series of riots in a number of towns and cities across England. A lawful killing conclusion should have allowed them to seize the initiative. Not only would their actions on that fateful day appear to have been vindicated, it would also allow them to paint in a poorer light those people who participated in the riots. That behaviour was characterised by the police and politicians at the time as 'criminality pure and simple' and exemplary sentences were meted out to those people who were caught and convicted.

The inquest did conclude that Mark Duggan had been lawfully killed though not without raising serious questions about the conduct of the police. That outcome is now the subject of a possible judicial review following concerns about the directions given to the jury by the coroner.

Both the MPS and London Mayor Boris Johnson were quick to go on the offensive, at first demanding that water cannon be made available to quell future protests like the riots. The Duggan family were also publicly lectured about their responsibility for ensuring that there was no repeat of the August 2011 disorder.

Since then however the police have been very much on the defensive following a series of hugely damaging revelations. On the controversial issue of stop and search for example, which was arguably the primary reason why so many people rioted in August 2011, Her Majesty's Inspectorate of Constabulary was forced to admit that 27 per cent of stop and searches, some 250,000 in the last year, were probably illegal. In February 2014, a report by Professor Betsy Stanko suggested that rape of vulnerable women especially those with learning difficulties has been effectively decriminalised by the MPS. Elsewhere it has been revealed that the police



Picture: Jess Hurd / reportdigital.co.uk

Protest outside the Royal Courts of Justice in March 2014, supporting women who have been deceived and abused by undercover police officers.



routinely fiddle crime figures and that attempts have been made to gag those officers who have sought to blow the whistle about this conduct.

Arguably the most damaging and disgusting revelations however are those that have emerged about police surveillance. The allegations about this activity had first appeared in June 2013 in a book, *Undercover – The True Story of Britain’s Secret Police* published by *The Guardian* journalists Rob Evans and Paul Lewis, and in a Channel 4 *Dispatches* TV documentary. The authors made a number of claims about members of the MPS Special Demonstration Squad (SDS) including the following:

- (i) That they had infiltrated the Stephen Lawrence Family campaign;
- (ii) That they sought information in order to smear Stephen Lawrence’s best friend Duwayne Brooks;
- (iii) That they had further targeted Black Justice campaigns;
- (iv) That they infiltrated anti-racist and political groups including the Anti-Nazi League and Youth Against Racism in Europe;
- (v) That they engaged in sexual relationships with activists in the groups within which they had been deployed;
- (vi) That they had used deceased children’s identities in the creation of covert identities for themselves;
- (vii) That they had incited activists in the groups they had infiltrated to commit criminal offences and had committed criminal acts themselves;
- (viii) That they had subsequently given evidence in criminal proceedings using their covert identities.

In the wake of these damning and explosive allegations, the Haldane Society convened a meeting of those individuals and activists who had been targeted and their legal representatives to discuss a collective response. As we reported in the previous issue of *Socialist Lawyer*, this led to the establishment of the Campaign Opposing Police Surveillance (COPS). The campaign was formally launched at a public meeting in central London in February 2014.

Shortly before and after the launch, which drew an audience of over 130 people, two key reports were published. These were respectively the *Stephen Lawrence Independent Review – Possible Corruption and the Role of Undercover Policing in the Stephen Lawrence Case* by Mark Ellison QC and *Operation Herne – Report 2* by Mick Creedon, Chief Constable of Derbyshire Constabulary.

The authors of both reports were clearly desperate to defend the concept of police surveillance. Ellison argues for example that:

‘For decades the SDS provided effective warning to enable the parts of the MPS dealing with the policing of public disorder to plan and allocate appropriate resources to meet the risks...There were...many examples of SDS undercover officers running great risks to themselves in order to gain very valuable intelligence. The potential for substantial public benefit to accrue from the squad’s work was accordingly both real and substantial.’

Similarly, Creedon concludes his report with the bold statement that:

‘It is acknowledged the majority of undercover officers conducted themselves professionally and with integrity. They undertook difficult and dangerous work in challenging circumstances. Their endeavours undoubtedly led to the saving of lives, the >>>



Helen Steel, one of the activists who is suing the police for undercover deception and abuse, outside the Royal Courts of Justice in London, March 2014.

>>> protection of property, the disruption of extremist groups and prevented serious public disorder. The personal risks to undercover officers and their families which are a consequence of these deployments mean that we all have a duty of care in managing the continuing risk to their personal safety and security.'

However, both reports were forced to conclude that much of the surveillance alleged by the authors of Undercover had in fact taken place.

It is worth considering that in further detail particularly in light of Creedon's pompous declaration about a duty of care. Stephen Lawrence was the victim of an unprovoked racist attack. His best friend Duwayne Brooks who was there with him should have been the MPS's most valuable witness. Instead, for years, both he and Stephen Lawrence's family were treated with hostility, suspicion and contempt. They have been denied justice and a number of those men responsible for the murder remain free two decades after Stephen Lawrence's death as a consequence of police racism, incompetence and, arguably, corruption.

Elsewhere, undercover officers were clearly displaying scant regard for their own families or anybody else's when they were sleeping with and in some cases fathering children with women activists in the groups they infiltrated. Similarly, little care was being shown towards the families of children whose identities were stolen or the construction workers who were blacklisted and impoverished for engaging in legitimate trade union activity.

Home Secretary Theresa May has been forced to respond to Ellison's report by announcing that there will be a judge led public

inquiry conducted under the Inquiries Act 2005. It will be wider than many interested parties and observers had anticipated, covering undercover policing generally rather than being limited to the surveillance of the Lawrence family.

Despite this, the participants at the COPS launch made it clear that we cannot afford to rest on our laurels. As Evans and Lewis presciently note in their book, the establishment of an inquiry is only a first step:

'Inquiries are strange phenomena. They lend an appearance of probity, but rarely achieve much, except the avoidance of awkward questions. There are exceptions of course: full blown public inquiries like the Leveson inquiry into the press or the Macpherson inquiry into racism in the police. Mostly, though, inquiries take place behind closed doors, allowing those in power to determine what the public should be told and what must remain secret.

The more a controversy persists, the greater the number of inquiries that are launched. It is a game that can last for years. The overall number of inquiries that are announced can be a barometer of how hard the authorities are trying to quell a scandal.'

Moreover what frequently happens is the targeting of individuals who are hung out to dry rather than an acceptance of institutional responsibility.

Any inquiry will most probably be a long way off, certainly after the next general election when there could well be a different Government. The challenge remains therefore to ensure that an inquiry does take place and that it is fully independent, transparent and that those who were responsible for authorising, supervising and engaging in undercover surveillance are held to account.

In the meantime the people who have been targeted continue to fight for justice. The MPS were forced to abandon an attempt to strike out the lawsuit initiated by a number of women who claim that they were manipulated into having long-term relationships with undercover officers. Similarly the Blacklist Support Group continues to fight for adequate compensation for its trade union activists.

COPS is committed to providing as much support as possible for each of the different individuals and campaigns. It is planning to hold further meetings in coming months and is looking to build support among lawyers, trade unions, students and community groups.

A few weeks after the COPS launch the inquiry into the Hillsborough football disaster began. The establishment of that inquiry shows what can be achieved when people stick together and fight for a just cause. The politicians that hope to form the next Government would be well advised not to underestimate the determination of those people that have come together to establish COPS. They have been activists, advocates and campaigners for many years and are in it for the long haul.

Brian Richardson is a barrister and a member of the Haldane Society's executive committee



For more info about COPS go to: <http://campaignopposingpolicesurveillance.wordpress.com>

STOP RACIST SCAPEGOATING



The results of May's European elections have frightening implications. In Britain, Ukip trades on the politics of fear and opposition to foreigners and the three mainstream political parties are moving rightwards on immigration. There is a pressing need for a broad, popular campaign that marginalises Ukip and welcomes migration.

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Immigration detention – a shameful, inhumane system

Jed Pennington on how the Home Office fails to comply with the law

On 28th January 2014, in a judgment that was not widely reported, the Administrative Court found that a severely mentally ill man, administratively incarcerated by the Home Office at Harmondsworth immigration removal centre, was held in conditions that were inhuman and degrading, contrary to Article 3 of the European Convention on Human Rights (ECHR). This was the case of *R (S) v Secretary of State for the Home Department* [2014] EWHC 50 (Admin). This is the fifth time in three years that such a finding has been made by the Administrative Court.

For the first 11 years that the Human Rights Act 1998 (HRA) was in force, no UK court had found conditions of immigration detention to violate the absolute prohibition in Article 3 ECHR; and, prior to the HRA, neither had Strasbourg. According to lawyers and NGOs working in this field, these are not isolated cases but illustrations of systemic failures in the way that mentally ill people are treated in the immigration detention system. Many others who have suffered similar abuses have been paid off by the Home Office for five and six figure sums in damages and legal costs. There will be many others who have suffered in silence and been whisked away for removal without any scrutiny of the way they have been treated.

How has this been allowed to happen? One answer lies in the increasing use of immigration detention, with what was at one time Government policy to be used as a last resort now increasingly used as a first resort. Currently the immigration removal centre estate has capacity for up to about 3,500 detainees with, as at April 2014, a further 1,200 detainees held in prisons. Additionally, since the 2006 foreign

national prisoner crisis, we have seen immigration detainees held for increasingly longer periods of time, and a willingness by the higher courts to uphold as lawful periods of detention approaching four years. This has been illustrated in the cases of *R (Muqtaar) v Secretary of State for the Home Department* [2012] EWCA Civ 1270 (41 months) and *R (Shafiq-Ur-Rehman) v Secretary of State for the Home Department* [2013] EWHC 1280 (Admin) (46 months).

It is no coincidence that four of the five cases over the last three years, as mentioned above, concerned individuals who had been convicted of criminal offences who the Home Office wished to deport.

Whatever the context may be, what lies at the heart of these cases is a straightforward failure by the Home Office to comply with the law. Until August 2010, it was the Home Office's stated policy that the mentally ill should only be detained in exceptional circumstances. Arguably, this policy merely reflected the implied limitations that the courts have imposed on what, on the face of it, are the unfettered statutory powers of detention. This has been explored in the cases of *R (Hardial Singh) v Governor of Durham Prison* [1983] EWHC 1 (QB) and *R (Lumba) v Secretary of State for the Home Department* [2011] UKSC 12.

In a number of cases, the Administrative Court held the Home Office to its public law duty to comply with this policy, finding that mentally ill people had been detained for lengthy periods and were entitled to substantial payments of damages. See, for example, *OM (Algeria) v Secretary of State for the Home Department* [2010] EWHC 65 (Admin) and *R (T) v*





Pictures: Jess Hura / reportdigital.co.uk

Secretary of State for the Home Department [2010] EWHC 668 (Admin).

Apparently unhappy with losing in court, and without notice or consultation, the Home Office changed the wording of the policy, so that only those with serious mental illness which could not be satisfactorily managed in detention would benefit from it. When challenged, a senior official stated that the changes did not represent a change of policy, but merely clarified how the policy had always been understood within the Home Office. When faced with a legal challenge that the policy was unlawful, because the changes had been made without due regard to the race and disability equality duties, the same official, apparently in an attempt to persuade the judge to withhold relief in the event that he found against the Home Office, gave an undertaking to commence an equality impact assessment within seven days. The judge went on to declare the policy unlawful, a finding the Home Office initially sought to appeal, before withdrawing shortly before the hearing in the Court of Appeal.

An equality impact assessment was finally commenced in January 2014, albeit with a limited remit and, it appears, a failure by the Home Office to collect data on those with protected characteristics passing through immigration detention. There is little optimism that meaningful changes will be made.

Are the mentally ill the only group who are suffering inhumane treatment in the immigration detention system, or are they but one symptom of a broken system? On 2nd July 2011, Muhammad Shukat, a 47-year-old Pakistani man detained at Colnbrook, was found collapsed and unresponsive in his cell. Serco healthcare staff had dismissed his repeated complaints of chest pain without carrying out proper investigations. An inquest jury found that neglect had contributed to his death, with 'a total and complete failure of care in the management of his health at Colnbrook [immigration removal centre]'.

Jimmy Mubenga, a 46-year-old Angolan man with a wife and five children resident in the UK, died during restraint by G4S guards during a deportation flight on 12th October 2010. The inquest heard that two of the three guards responsible for his care had numerous explicitly racist text messages on their mobile phones. In her report

following the inquest, the Coroner said that these messages 'seemed to evidence a more pervasive racism in G4S'. The inquest jury gave a verdict of unlawful killing and, having initially decided that there was insufficient evidence, the Crown Prosecution Service has now charged the three guards with manslaughter.

Then there is the case Alois Dvorzac, an 84-year-old Canadian man suffering from dementia, who was transferred from Harmondsworth to Hillingdon hospital and died after being restrained in handcuffs for five hours. In a report published in January 2014, Her Majesty's Chief Inspector of Prisons found that there was 'a lack of intelligent individual risk assessment' in the use of restraints during escorted visits to hospital, with the result that 'most detainees were handcuffed on escort and on at least two occasions, elderly, vulnerable and incapacitated detainees... were needlessly handcuffed in an excessive and unacceptable manner', describing these as 'shocking cases where a sense of humanity was lost'.

The Home Office, which is required to authorise the use of restraint on detainees, was on notice of their inappropriate use. In July 2012, a High Court judge had found that the prolonged restraint of an Algerian man during escorted in-patient treatment, also at Hillingdon hospital, breached Article 3 ECHR. This is set out in the authority of *FGP v Serco and Secretary of State for the Home Department* [2012] EWHC 1804 (Admin).

These cases are illustrative of a broken system that is spiralling out of control. They would ordinarily have provoked widespread outcry and, probably, a wide-ranging inquiry followed by the promise of real change. But with the current predominant discourse on immigration and stated Government policy to create a 'hostile environment' for migrants, the Home Office will no doubt take the view that there is little appetite for a compassionate approach to migrants. With the passing of the Immigration Act 2014, we see the further erosion of migrants' rights, with curbs on appeal rights, the right to apply for immigration bail, and restrictions on access to the NHS and private residential accommodation, as well as (separately) further restrictions on access to legal aid.

Jed Pennington is a solicitor at Bhatt Murphy.

Left: A young refugee with a broken leg from an accident during a police chase after being made homeless after the clearing of a refugee camp near Calais in France.

Picture: Peace Brigades International



The firmament,
La Picota Prison,
23rd January 2013

This is the poetry of David Ravelo

David is a human rights defender and a political prisoner in Colombia. This poem was written in La Picota prison in Colombia where he is presently being detained. He received death threats before facing a trial described as irregular by lawyers and international human rights organisations.

This poem first appeared in the book *In Protest – 150 Poems for Human Rights* and is reprinted here with the kind permission of the author. The struggle for his release continues.

Translated from the Spanish by Gwen Burnyeat.

Nights, so many nights
That I do not see the firmament.
It will be full of stars, I think,
Or the moon with its radiating glow.

I imagine the clouds drifting
Visiting and embracing the stars and planets,
I think of the woman I love,
But what is immensity like?

Is the night dark or bright?
Night dies as dawn approaches
Day is born with a halo's splendour
The firmament is strange to me.

Night without a firmament
I do not see it but I invent it
The rain dances with the wind
And thunder sounds, like a wail.
Show me what the firmament is like
Because I have not seen it for so long
The sky will be grey or blue
I hope soon to overcome this unjust imprisonment.

**Socialist
Lawyer**

Magazine of the Haldane
Society of Socialist Lawyers
Number 67, June 2014
www.haldane.org

Government in the dock: destitution and asylum in the UK

In a landmark legal case, writes **Sonal Ghelani**, Refugee Action took the British Government to court during February 2014 to challenge policies which leave thousands of asylum seekers hungry and destitute.

Imagine you are a single adult living in England, Northern Ireland, Scotland or Wales and you are given £36.62 per week. This is to feed yourself, buy clothes and cover phone credit – keeping in touch with family is the only thing stopping you from sliding into depression. With this money you must also pay for transport across the strange and bewildering city that you have now been forced to call home. This sum of money is your only financial means of survival: you brought very few belongings to your new country when you were forced to flee.

Concerned by the serious impact of poverty on asylum seekers, Refugee Action decided to take legal action. This year, the Home Secretary, Theresa May, refused to increase asylum support rates for the 2013 – 2014 financial year, even when other types of benefits were increased. Legal action was taken on the view that this was unlawful. Asylum support rates have not been increased since April 2011, meaning that they have fallen well out of sync with the cost of living.

Thousands of asylum seekers are living on just over £5 a day every day in the UK. 'I am a poor person', said Z, a torture survivor, '...for me when you are poor there is no life for you. It is a kind of prison. It is worse than prison.'

The UK Home Office offers financial support and accommodation to asylum seekers who are destitute while their claim for asylum remains under consideration. During this time, asylum seekers are not allowed to work, except in very limited circumstances and only if the Home Office gives permission. Support is offered until the asylum application has been 'finally determined'. If the applicant is accepted as a refugee they will then have the ability to work and have access to mainstream welfare benefits.

In 2012, over 30 per cent of those claiming asylum were recognised as being refugees after their interview with the Home Office; of those who were refused at that stage but appealed and had their appeal decided, nearly 28 per cent



successfully overturned the initial refusal to grant asylum by the Home Office.

At around 51 per cent of the amount paid in income support to a single adult, asylum support rates are a far cry from the lavish benefits that certain politicians and the tabloid media would like the public to think asylum seekers claim from the State. These include stories in papers such as *The Daily Mail*, among others, about “destitute” asylum seekers with luxury TVs and iPads...’

Their abject poverty exacerbates a fraught period in an asylum seeker’s life when they are unsure whether they may be sent back to the very country where they have fled conflict (e.g. in Syria) or persecution, for example, for being gay in Uganda.

The meagre allowance paid in asylum support does not just affect single adults; it also impacts on families with children. A woman who gave evidence to The Children’s Society supported parliamentary inquiry in 2013 said: ‘My son does not have a writing desk and has to do his homework on the floor...’

This unacceptably low level of support means that individuals and whole families lack vital nutrients from fresh fruit and vegetables. Asylum seekers surveyed by the charity Refugee Action say they often go hungry. Those asylum seekers who were interviewed by Refugee Action admitted having to choose between transport costs or food. Most said they often forego meals because they simply can not afford food on their allowance.

This picture of poverty is supported by evidence provided by organisations such as Freedom from Torture.

Giving evidence to the parliamentary inquiry, Dr Elaine Chase, from the University of Oxford, commented: ‘There is increasing evidence of the impact on children’s physical health, their mental health...from not having enough food to eat....not having a warm coat to wear in the winter.... >>>



Picture: Jess Hurd / reportdigital.co.uk

Refugee Action together with The Migrants’ Law Project issued the following statement when judgment was handed down on 9th April 2014 by Mr Justice Popplewell in the case of *The Queen on the application of Refugee Action v The Secretary of State for the Home Department* [2014] EWHC 1033 (Admin):

The decision of 6th June 2013 [not to raise asylum support rates] was quashed and the Secretary of State was ordered to retake the decision as to the level at which asylum support should be set, in accordance with the guidance contained in the judgment.

The judge concluded that it was necessary for him only to consider the first and third of Refugee Action’s grounds for review since this was sufficient to require that the Secretary of State’s decision be quashed. Among the key elements of the judge’s reasoning were the following:

- The Secretary of State had wrongly failed to include the following categories of essential living needs in setting the level of cash support: essential household goods such as washing powder, cleaning materials and disinfectant; nappies, formula milk and other special requirements of new mothers, babies and very young children; non-prescription medication; and the opportunity to maintain interpersonal relationships and a minimum level of participation in social, cultural, and religious life.
 - The Secretary of State had also wrongly failed to consider whether the following items were essential living needs: travel by public transport to attend appointments with legal advisors, where this is not covered by legal aid; and telephone calls to maintain contact with families and legal representatives, and for necessary communication to progress their asylum claims.
 - In assessing the sums necessary to meet essential living needs the Secretary of State had made the following errors: (a) she had taken into account the proposition that since 2007 the level of cash support for adults and children had increased by 11.5 per cent whereas in fact for most adults it had decreased in absolute terms by 11 per cent; (b) she had failed to take account of the extent of the erosion of rates in real terms over several years given inflationary price pressures; (c) she had misunderstood and misinterpreted Office of National Statistics data on which she relied in support of the decision; (d) she failed to take reasonable steps to gather sufficient information to enable her to make a rational judgment in setting the asylum support rates; and (e) she misdirected herself in law as to her duties towards 16 and 17 year olds, and whether children within this age group are required to attend full-time education.
- The Home Secretary must review her decision to freeze asylum support rates by 9th August 2014.

>>> ha[s] a long term effect on children and young people's wellbeing.'

Those who have often fled unspeakable persecution and conflict are prevented from rebuilding their lives by financially supporting themselves and their families as well as rebuilding their self-esteem – and are forced instead to exist on a sum of money which is so low that they regularly go hungry. 'It gives self-worth as a man to work', said another man who fled torture before coming to the UK, 'not to have to beg or depend on others...'

The proliferation of food banks being used by an estimated half a million British citizens has been a matter of popular concern. Sadly, the same concern is rarely shared for the thousands of asylum seekers living from hand to mouth.

Refugee Action is not the only organisation talking about destitution among asylum seekers. It is a huge problem, long acknowledged by British civil society. Still Human Still Here, a coalition of more than 60 charitable organisations working with people who have sought asylum, believes that the current policy is inhumane and ineffective. It is urging the Government, among other things, to provide asylum seekers with sufficient support so that they can meet their essential living needs while their claims for asylum are in the process of being decided. They also argue that asylum seekers should be allowed to work if their case has not been resolved within six months.

Refugee Action says that it brought the case as a last resort because the Home Office had refused to properly engage with its concerns and those of other charities. Its legal case was based on the premise that the Home Office is unable to properly explain its reasoning for setting the rate of support at the present level and not increasing it.

Dave Garratt, the Chief Executive Officer at Refugee Action said: 'The level at which Section 95 [asylum] support is provided is too low to enable asylum seekers to meet their essential living needs and live with dignity. The Home Office has chosen not to listen to the concerns expressed by reputable charities with a vast amount of experience in this area. Therefore, there is no choice but to challenge the Home Office position through legal action.'

The claim was heard in the High Court from 11th to 13th February 2014.

It is surely unacceptable that in the 21st century, people seeking refuge in one of the richest countries in the world are going hungry because of Government policy. One would think that all reasonable minded citizens would be, at the least, concerned that people are going hungry in their name. So why is it that there is no chorus of outrage or relentless lobbying of parliamentarians? Perhaps it is a reflection of the political climate that the Government can ignore the concerns of reputable charities, confident in the knowledge that there is no wider political appetite for standing up for the rights of the marginalised. So it is that Refugee Action has turned to the courts to seek justice on behalf of asylum seekers.

The British Government may argue that judges, who are unelected, should be cautious about intervening in what are seen as social policy decisions made by a Government with the mandate to make such decisions on our behalf.

However, it is troubling that decisions are made by politicians not only with little public scrutiny but also with no reasonable explanation for them. This is particularly troubling when there is strong evidence to show that the consequence of the decision in respect of asylum support is that refugees are going hungry.

● *This is an edited version of an article that first appeared on the openDemocracy website on 3rd February 2014 and is reprinted here with their kind permission. The article is part of an ongoing discourse on migration entitled 'People on the Move – Beyond Borders' on openDemocracy 50:50 edited by Jennifer Allsop.*

Sonal Ghelani is a solicitor at the Migrants' Law Project.

Picture: Jess Hurd / reportdigital.co.uk



Criminalise and target 'foreigners'

There has been a continuous escalation of hard-line policies against immigrants, argues **Pierre Makhlouf**, and it must not go unchallenged.



I started out as an immigration and asylum caseworker in 1989. I recall in 1991 telling colleagues that the UK would never implement policies as they did in continental Europe and that we would therefore never abolish benefits for asylum seekers. In the mid-1990s, asylum seekers' entitlement to benefits was indeed abolished. As Lord Justice Simon Brown said in the case of *R v SSSS ex parte B and JCWI* [1996] EWCA Civ 1293, Parliament could not have intended to have introduced rules that were such as to 'necessarily contemplate for some a life so destitute that to my mind no civilised nation can tolerate it. So basic are the human rights here at issue that it cannot be necessary to resort to the European Convention of Human Rights to take note of their violation'.

By then many immigration lawyers had realised that this was exactly what Parliament had intended. Subsequent developments, and the introduction of a programme of dispersal of asylum-seekers to accommodation located around the UK, led to warnings from many of those campaigning for migrants' rights that this would lead to asylum seekers being the targets of racist attacks by virtue of being highly visible as a result of living in specific, identifiable accommodation. The warnings came true with repeated reports of attacks against asylum seekers in the North East of England, Scotland, and South Wales.

When the Human Rights Act 1998 was introduced under the last Labour Government, we saw an evolution in

Refugees, asylum seekers and their supporters protested at the Red Road Flats in Springburn, Glasgow in 2010, after the tragic death of a Kosovan family of three who jumped to their deaths. Local campaigns are vital in harnessing support.

the way the Home Office dismissed applications outside of the Immigration Rules. No longer were applications dismissed for not being sufficiently 'compassionate so as to make them exceptional', a form of refusal that would result in lawyers assessing the reasonableness of a decision and whether or not it could be made subject to a judicial review challenge. Instead, following the immediate implementation of the Human Rights Act 1998, cases were initially refused on the basis that they were 'not sufficiently compassionate so as to breach a person's human rights'. Thus the reference to compassion was soon left behind. I recall taking part in a TV debate in the late 1990s where one participant argued that there had been 'enough compassion'. Now the struggle is focused on the ever more extreme test in respect of whether or not a decision to refuse a person permission to remain in the UK breaches their fundamental human rights.

There has been a continuous escalation of hard-line policies against immigrants over many years. The Government, acting under pressure from a right wing press and in recent years from Ukip, has explicitly declared that it intends to create a hostile environment for 'illegal immigrants'. Foreign national prisoners who have completed their sentences have been a particular focus of these attacks, despite the fact that the growing number of foreigners who have spent time in prison have done so as a result of committing documentation or identity >>>

>>> offences, offences that either did not exist, or that were never previously considered so serious as to do away with all sense of 'compassion'.

This criminalisation of foreigners and the push for a 'hostile environment' has now been accompanied by a new Immigration Bill that will introduce restrictions into primary law on how Article 8 of the European Convention on Human Rights (ECHR) is to be interpreted in order to make it more difficult for a person to be granted permission to remain because of their family ties to the UK. At the same time in-country rights of appeal against deportation are to be abolished so as to ensure that it will be extremely difficult for anyone to appeal successfully. There are also proposals to restrict rights to legal aid unless a person has been legally resident in the UK for 12 months (therefore effectively preventing most applications for false imprisonment before the civil courts); limit legal aid payments in judicial review cases to the most exceptional cases; and to remove legal aid from all immigration advice and appeal cases except where this relates specifically to asylum, Article 3 ECHR cases or detention. These are all

draconian changes to the law, inter-linking attacks on the rights of individuals with obstacles to individuals' ability to seek justice.

It is clear that these attacks will affect all of us, including British nationals. Many people are seeing friends and loved ones prevented from entering the UK or being forced to leave this country despite having lived here most of their lives. The consequences of this Dutch auction for ever more hard line polices are resulting in those accused of being 'illegal' to be ever more marginalised and left without hope. It includes excluding people from access to NHS care, stripping people of their nationality thereby rendering them stateless, increasing the use of immigration detention and allowing people to be detained for many years on end without hope of release. This does not just cause pain to the individuals under attack, but to entire communities. The consequences are a depressing march towards ever greater hostility towards immigrants, something which must not go unchallenged.

Pierre Makhoul is Assistant Director at Bail for Immigration Detainees. This article is written in a personal capacity.

What can we learn from the European election results?

It wasn't just the far right that did well, shows **Siobhán Lloyd**

In May 2014, voters in the 28 member States of the European Union went to the polls to elect their 751 representatives to the European Parliament. Across Europe there appeared to be a stark move towards eurosceptic parties and the extreme right.

In France, Marine le Pen's far-right Front National party won 24 seats – more than any other political party in France. In Greece, the neo-Nazi party, Golden Dawn, won nearly ten per cent of the vote – despite the fact that six of its MPs, including its leader, are in prison on charges of murder, extortion and arson. In Italy, the anti-immigration party, Liga Norte won six per cent of the vote, taking five seats in the next European Parliament. In Denmark, the anti-immigration far right People's Party won four out of 13 seats. The Hungarian party, Jobbik, which has been accused of racism and anti-Semitism, won three out of 21 seats. Geert Wilders's eurosceptic Freedom Party won four seats in the Netherlands.

Do the results demonstrate a European-wide lurch towards the extreme right or dissatisfaction with the traditional ruling parties? Alain Touraine, the French sociologist, puts the Front National's success in the polls down to the current President François Hollande's unpopularity coupled with Nicolas Sarkozy's failures when he was president. The Front National has filled a political vacuum and has successfully managed to convince some voters that it is the only party that will speak against the power of international finance and stand up to the bureaucrats in Brussels.

In the UK, the anti-European, UK Independence Party (Ukip), also won 24 seats out of 73. This was the first time since MEPs were first elected in 1979 that neither Labour nor the Conservatives won the most seats in a European election. The present Conservative-Liberal coalition is unpopular which can be demonstrated by the fact that the Liberal Democrats only managed to retain one of its 11 seats in the European Parliament. The Conservatives also lost eight of their seats. Ukip gained 11 more seats than it had in the 2009 elections. However, this is less than the number of seats that the coalition lost.

More encouragingly, Nick Griffin, the British National Party's (BNP) leader, lost his seat and his party only managed to gain one per cent of the vote in comparison to the six per cent that it won in the 2009 European elections.

The picture across the rest of Europe was more mixed. In Spain, like in France and the UK, the two main political parties, the Popular Party and the Socialists, did not fare as well in this election as normal, failing to secure 50 per cent of the vote. Nevertheless, rather than voting for right-wing parties, the Spanish voted for a number of smaller left-wing parties including Podemos, a new party established by disgruntled socialists and those from the Indignados movement which won nearly eight per cent of the vote; and the United Left which won nearly ten per cent of the votes.

In Greece, despite the votes for Golden Dawn, the left-wing and anti-austerity party, Syriza, won more votes than any other party. >>>

Nigel Farage: Ukip's success was the first time since MEPs were first elected in 1979 that neither Labour nor Tories won the most seats in a European election.



Picture: Jess Hurd / reportdigital.co.uk

>>> In Italy, the results were not as negative as they first appeared. The Liga Norte won two per cent fewer votes than it had done five years ago, whereas the ruling Democratic Party (a party formed in 2007 as an alliance between the Communist, Socialist and Christian Democrat parties) won 41 per cent of the vote and now have 31 seats, ten more than they had in 2009. Perhaps the difference between Italy on the one hand and France and the UK on the other can be explained by the fact that the youthful and charismatic Prime Minister of Italy, Matteo Renzi, was only sworn into office a couple of months before the European elections, with a promise of something different. He has pledged to try to change the EU from within.

In contrast to the other larger European States, German voters stuck with the *status quo*, with 35 per cent of the electorate voting for Angela Merkel's Christian Democrat party, slightly more than had in 2009.

What will the election of the right-wing parties mentioned above mean in practice? Under Rule 30 of the Rules of Procedure of the European Parliament, members are allowed to form groups according to their political affinities but they must have members from at least one-

quarter of member States. The political groups then benefit from the support of a secretariat to assist them in their parliamentary duties.

The Front National in the past has tried to form a political group called the Technical Group of Independent Members – Mixed Group. However, its attempts failed because other MEPs complained that the group was not formed in accordance with the rules because there was no political affinity between the different members. Following the recent elections, the Front National has been trying to form a political alliance with other right wing groups from across Europe. At the time of writing this article, no such political group has been formed. As many commentators have joked, it will be interesting to see whether nationalistic political parties, which are so opposed to foreigners, will be able to form a political group and work together with the foreigners that they so despise. There are certainly enough eurosceptic parties to choose from. Nevertheless, it may be difficult for the Front National to form such a group as it is unlikely that Ukup would want to be tainted by the Front National and it will probably try to get some of the right-wing parties to join its Europe of Freedom and Democracy group.

Picture: Jess Hurd / reportdigital.co.uk



In practice it is unlikely that the results will have an impact on the way that the European Parliament votes. The European People's Party (EPP), which is formed of parties such as Angel Merkel's Christian Democrats and Nicolas Sarkozy's, UMP, and the Socialists continue to be the two largest political groups. The pro-European groups (the EPP, the Socialists, the Alliance of Liberals and Democrats for Europe, the Greens and the United European Left) have 565 MEPs, approximately 75 per cent of all members. This means that it is unlikely that the European Parliament will be adopting any extremist measures over the next five years.

The real problem with the election results will be the impact that they have on domestic politics and the discourse around the European Union and immigration more generally. The right wing press constantly pushes immigration to the top of the political agenda. At the beginning of this year, as the restrictions on Bulgarians and Romanians working in other member States of the EU were lifted, warnings were given about tidal waves of Bulgarians and Romanians coming to the UK to access the benefits system. The *Daily Express's* headline on 1st January 2014 read: 'Benefits Britain here we come! Fears

as migrant flood begins'. That suggested that the only reason why people wanted to come to the UK was to sponge off our benefits system. There did not appear to be any analysis of the fact that under the Citizenship Directive, there is no automatic entitlement to benefits in another member State. This is as set out in Directive 2004/58/EC of the European Parliament and of the Council of 29th April 2004 on the rights of citizens of the Union and their family members to move and reside freely within the territory of the member States.

The right-wing press and Ukip's success has had an impact on the present Government's policies in the UK. Before these elections, David Cameron had already promised an in-out referendum on the Europe Union in 2017 if he is re-elected. The Government also pledged to cut net migration and renegotiate the European Convention on Human Rights, policy aims that Marine Le Pen also shares.

Following on from Ukip's success in these elections, the Government is reportedly going to try to change the rules on which EU nationals can claim benefits in this country.

We cannot ignore the results of these elections because something needs to be done about the problems that the >>>

Defiant Stand Up to Racism and Fascism protests took to the streets across Britain on 22nd March. In London (pictured below), around 7,000 people marched while more than 1,000 protested in Glasgow and another 500 in Cardiff. Lively and diverse, the protests were called by Unite Against Fascism (UAF) and supported by the TUC and all the major unions.



>>> results disclose. First, there is a crisis in democracy in Europe. Only 43 per cent of those who were eligible to vote across Europe did. It is not surprising that there is such apathy across the continent. Our only engagement with the European project is once every five years when we elect our MEPs. Most of us then forget who they are and what they do while the European Commission wields enormous power. Questions need to be asked about whether the elections are the only way in which the general public can engage in what should be a democratic Europe. This is not just a problem with the European Union but also with democracy more generally. The Council of Europe recognised in a 2010 report that many people abstain from participating in democracy because of the imbalance in power between economy and democracy and because decisions are often prompted by non-democratic powerful actors.

Secondly, we have to ask why a significant number of the electorate voted for extremist parties. It is easy for both mainstream and extremist political parties to gain votes by using immigrants as scapegoats for other problems to show that they are tough. There are other problems that those voters are justified in feeling angry about. There has been a prolonged recession across Europe caused by a crisis in the current economic system, which has impacted upon people's standards of living, especially in countries such as Greece which has been forced to implement austerity measures. In France, 5.9 million people are currently unemployed. Phillipe Marlière, a professor of French and European Politics at University College London, argued in *The Observer* that there is a perception in France that the EU represents an aggressive brand of free-market economics, which promotes social dumping where employers are in a race to reduce wages and employee benefits. This is at odds with the French concept of the 'good life' and a pro-active welfare state. In the UK, we have a housing crisis, a cost of living crisis and high levels of unemployment in areas where the BNP have been popular in the past and where Ukip made gains in this election.

Rather than using immigrants as scapegoats, national governments and the European Union need to address structural problems with the economy, the democratic deficit, unemployment and housing to halt the rise of the far right.

Siobhán Lloyd is a barrister at 1 Mitre Court Buildings

Pictures: Jess Hurd / reportdigital.co.uk





‘We must restore humanity back into immigration cases’

The media attacks on migrants makes our jobs harder, reports **Michael Goold**, which is why we have to redouble our efforts

The Haldane Society’s series of human rights law lectures ended for this academic year with an insightful and challenging talk on 13th March 2014 about the demonisation of migrants by the press and politicians. Attendees heard from two speakers with extensive knowledge of the issues facing migrants today, both of whom are currently based at the Institute of Race Relations (IRR), an organisation which for nearly 60 years has worked tirelessly to counter racist populism from the media and Government with cutting edge research and analysis.

The first speaker was Jon Burnett, assistant editor of *IRR News*. He highlighted the increasing trend of xenophobic and racist views being openly expressed in mainstream media, citing examples such as historian David Starkey’s infamous comments after the 2011 riots that ‘the whites have become black’.

Jon Burnett referred to a 2012 report by the IRR entitled *The New Geographies of Racism: Peterborough*, which examined racial tensions and issues in a city which has experienced a significant increase in its migrant population over the past few years. Jon Burnett noted that, depressingly, there was a near consensus among the mainstream political groups in the area that migration, and migrants themselves, were detrimentally affecting the city. This had led to shocking public denunciations, such as a local paper calling for asylum seekers to be rounded up and kept in camps outside of the city.

While politicians and local papers blamed migrants for rising crime and falling living conditions, the empirical research carried out by IRR showed quite a different story. In fact, migrants are themselves increasingly the victims of crime, as racist attacks have dramatically increased in Peterborough. Jon Burnett noted that that trend cannot be seen in isolation from the anti-immigrant rhetoric, but is causally linked.

The next speaker was Frances Webber, vice-chair of IRR. Frances Webber is also a former leading immigration barrister and a Haldane Society vice-president. Frances

Webber’s talk was equally as bleak as Jon Burnett’s in its assessment of migrant welfare in the UK, as she analysed how current immigration law and policy are drastically undermining the rule of law. Fundamental principles of the rule of law – such as equality before the law, access to justice, an independent judiciary, that the Executive must not be the arbiter of its own powers and no punishment without crime – have been effectively scrapped under successive Governments’ increasingly punitive immigration systems. This has been encouraged through an ‘unholy alliance’ between politicians and the press which has fomented hysteria against the particular ethnic minority of the day. Frances Webber emphasised Islamophobia and attacks on eastern Europeans, particularly Roma, as the current issues of the day.

This alliance between press and politicians creates a vicious cycle, with anti-immigrant media campaigns creating a climate in which bad, discriminatory immigration laws can get through Parliament.

Frances Webber noted that recent trends unfortunately suggested things would get worse still, with every mainstream political party now partaking in anti-immigrant populism. In terms of the rule of law, the Tories had even spoken about withdrawing from the European Convention on Human Rights after embarrassing incidents such as Abu Qatada’s deportation in 2013, using the doubly anti-immigrant justification of breaking free from Europe and stopping ‘foreign criminals’ from being able to fight deportation.

Although the talk painted a dire picture of the state of migrants’ rights in the UK, Frances Webber did have some final words of advice for today’s immigration lawyers who want to fight such injustice: we must restore humanity back into immigration cases. The law will be against you in immigration cases, so concentrate on getting the facts in, which are so often compelling, and forcing the courts and tribunals to drop their ‘depraved indifference’ and take notice.



Euro court half right?

Nick Bano on a crucial judgment for our trade unions

The European Court of Human Rights (ECtHR) handed down judgment in *RMT v UK* just two weeks after Bob Crow's funeral. If the case is Crow's legacy to labour law it is a mixed blessing. The union lost on the facts but the Strasbourg court reasserted the protection of the right to strike under Article 11 of the European Convention on Human Rights. The decision is telling in respect of the ECtHR's political sensibilities. It heaps strong praise on labour rights in principle but the court – which is clearly alert to consistent threats and attacks from the UK – failed to convert its respect for labour rights into binding authority.^{m3}

The case concerned whether two of the UK's restrictions on trade union rights – the blanket ban on secondary and solidarity action, and the ballot and notice requirements for strike action under the Trade Union and Labour Relations (Consolidation) Act 1992 – comply with Article 11 of the European Convention on Human Rights (ECHR). The RMT was represented by Haldane Society Vice-President John Hendy QC, and Michael Ford QC, instructed by Thompsons Solicitors.

The appeal arose from a conflict between RMT members and their employers, who were subsidiaries of the Jarvis Plc group of companies. A number of RMT members had been transferred to a non-Jarvis group employer (Hydrex) under the Transfer of Undertakings (Protection of Employment) Regulations 2006 and, when their new employer sought to worsen their conditions of employment, some of the workers who had not been transferred from Jarvis proposed industrial action against the Hydrex workers' new terms, fearing that the process would be repeated to undermine the terms of a collective agreement with the Jarvis group. While the Jarvis employees and the Hydrex employees were effectively co-workers, the trade dispute was technically between Hydrex and its employees. Jarvis was not a party to the dispute and its workers could not take lawful strike action.

The ECtHR declined to rule on the UK's oppressive regime of ballot and notice provisions in respect of industrial action because the RMT had been able to strike in this particular case, but its refusal to tackle the point is not fatal. It leaves the law on ballot and notice provisions untouched at a relative high point after the Court of Appeal's

judgment in *RMT v Serco* [2011] EWCA Civ 266, which took a less restrictive view than a number of previous decisions. Also, since this particular matter has not yet been litigated at Strasbourg there is as yet no authority on whether the provisions comply with Article 11 ECHR. The ECtHR noted the TUC's comments to the UN's International Labour Organisation (ILO) that the law is 'unjustifiably burdensome' and 'continues to impose intolerable demands'. A future challenge might rely on the ECtHR's increasingly favourable attitude towards the protection of primary strike action.

The substance of the judgment dealt with the right to take strike action, consolidating the protection of the right to strike in ECHR jurisprudence. Not only did the ECtHR itself declare that 'strike action is clearly protected by Article 11', but the Government did not seriously argue that it is not. The Government did point to the ongoing dispute at the ILO – where the employers' representatives have been grandstanding on this issue since 2012 – but the ECtHR drew on the international law influences that it had previously considered in *Demir and Baykara v Turkey* and concluded that the matter is now settled, suggesting that the ILO employers' position may be wrong in law.

Sticking to this positive theme, the ECtHR further held that 'the taking of secondary industrial action by a trade union, including strike action, against one employer in order to further a dispute in which the union's members are engaged with another employer must be regarded as trade union activity covered by Article 11'. Again, in reaching this conclusion, the ECtHR drew on international sources from the ILO and the European Social Charter.

The ECtHR heard the union's arguments and ruled that the UK's outright ban on secondary action interferes with Article 11. It scrutinised and critiqued the UK, noting that it was at the extreme end of labour practices among Council of Europe states. However, the ECtHR went on to hold that this interference pursued a legitimate aim – protecting the rights and freedoms of those who are not parties to a dispute.

The ECtHR then considered whether the interference was justified and necessary in a democratic society and held that it is. The ECtHR described a 'democratic consensus' resulting from successive Governments' attacks on trade union rights. It noted the State's argument that it needed to 'shield the domestic economy from the disruptive effects of [secondary] action, which, if permitted, would pose a risk to the country's economic recovery'. In effect it ruled that the Government's neo-liberal social and economic policies, and the UK's damaged labour relations system, were part of the body politic to such an extent that the ECtHR chose to operate a margin of appreciation.

The Court made it clear that it disapproves of the policy, but it would not contradict Parliament in an area of social policy.

The issue of secondary action may become increasingly important as employers use ever-more complex corporate structures and outsourced workforces to divide and control, leading to situations in which colleagues working side-by-side but employed by separate entities may not take lawful strike action. The ECtHR recognised that there were circumstances in which the ban on secondary action could be an obstacle to exercising Article 11 rights, but it would not allow itself to be drawn on hypotheticals. The ECtHR's failure to rule that the interference was unjustified was partly because it was 'bounded by the facts submitted for examination in the case', which it did not consider to be a particularly clear example of the harm of the ban on secondary action.

However – jarringly – the ECtHR did allow itself to hypothesise on the potential harm to employers that widespread solidarity action could cause by accepting the Government's rationale for the policy: safeguarding the economic recovery and protecting employers who are not parties to disputes.

This is not the first time that the law has pitted labour rights against economic rights. Unlike the European Court of Justice's judgment in *ITF v Viking Line*, this case was not an exercise in balancing labour rights with the rights of a particular business: it was a much more fundamental political question about whether treading on labour rights is in the national interest. By operating the margin of appreciation the ECtHR has sidestepped its role as a protector of human rights from adverse political influences, and allowed the Government to set the tone instead.

A final point about the hubris of the Government. In March 2014, the Department for Business, Innovation & Skills Minister Matthew Hancock MP boasted that 'the number of cases taken to tribunal is down 80 per cent' as a result of the Employment Tribunals fee regime. Meanwhile the Government argued in *RMT v UK* that its attack on labour rights was partly justified by the UK's 'marked development of labour law, conferring many more rights on workers that could be enforced through the courts'. The Government has dismantled industrial relations over the last 30 years and has now set its sights on workers' individual rights. This certainly won't be the last time that the ECtHR is called on to parse the UK's inferior labour and employment laws, and balance the Government's neo-liberal agenda with Convention rights.

Nick Bano is a researcher at the International Centre for Trade Union Rights (ICTUR) and a member of the Haldane Society's executive committee.

In three decades a social welfare advisor has not seen the levels of poverty that are routine today.

Rebecca-Omonira-Oyekanmi listens to the stories of Londoners who struggle to survive.

Rats in the lunchbox, mould in the mattress: living in squalor in London

Mahder Redie has not slept since finishing an eight-hour cleaning shift at 7am. It is noon on Thursday 3rd April 2014. Since 8am he has been waiting for the repairman, as arranged with his landlord.

Mahder, 35, prepares lunch for his pregnant wife and daughter in the closet-sized kitchen. His wife Hiriti tries to relax on the sofa. One-year-old Merken wants to play, squealing happily.

Hiriti is subdued. 'I want a fresh start', she says. Speaking a mixture of Bilen, her native Eritrean tongue, and English, Hiriti says the thought of raising another child in the mouldy flat is depressing. Above the dining table is a framed photograph of 30-year-old Hiriti wearing traditional Eritrean clothes; her dark hair pulled into thick braids that fan out into luxuriant mahogany cloud; her face is decorated and her expression carefree.

The Redie's one-bedroom flat is infected with mould; they can't afford to move. Spooning sweet white rice and salad into a bowl for Merken, Mahder says that since the start of the year his housing association landlord has sent seven inspectors to the flat and, each time, 'They do nothing'.

Mahder Redie earns £8.61 an hour as a cleaner at the Westfield shopping centre in East London, across the road from the multimillion-pound Olympic Park. Like many low paid workers, his job is temporary and barely covers living costs in a city where the average monthly rent is £1,233.

The family is desperate to move, but for those on low incomes there is little choice. The provision of council homes and social housing continues to fall. Nine London councils recently lost a legal challenge against Mayor Boris Johnson's plan to increase the upper limit of rents deemed 'affordable' in the capital.

These circumstances have deepened an inequality of arms between London's poorest renters and their landlords. Pamela Fitzpatrick sees the consequences every day.

After nearly 30 years spent working in social welfare, for organisations such as Child Poverty Action Group and the Citizens Advice Bureau, Pamela set up the Harrow Law Centre four years ago. 'I have never seen the level of poverty that we are seeing today', she says. The centre takes calls from all over London. The biggest problem is housing.

'Evictions are a real problem, even with housing associations,' says Pamela. 'We have had a case where somebody got into arrears with their rent [and was] unlawfully evicted. Her 10-year-old son came home and found they had changed the locks with no notice.'

The ease with which landlords can evict tenants makes it difficult to challenge the poor state of some housing. Margaret Thatcher's Government deregulated tenancies back in 1989. In Parliament at the time, deregulation's champions claimed this would encourage private sector landlords to invest and better maintain homes.

'That has not happened,' Pamela says. 'All we really have are people who are in very poor accommodation paying really high levels of rent and living in squalor. One five-year-old child brought in her lunchbox to show me that rats had eaten it. We are talking about pretty grim situations.'

Mahder Redie's problems began in 2008, a few months after he moved into the one-bedroom flat in Brixton, South London. He scrubbed the dark smudges on the bedroom walls, but they always came back: furry, blackish green blotches, spreading upwards and outwards from the wall's corners.

Each year the mould got worse, seeping into the bed frame, the wardrobe, onto the frame of his daughter's cot. Merken has been rushed to hospital three times after struggling to breathe while asleep.

'Every year since 2008 I took a picture of the room,' Mahder says. The landlord 'just sent people to come and check it, but they did nothing.' Mahder's landlord is Metropolitan, a national housing association providing homes to social tenants across England.

Hiriti became ill while pregnant with Merken back in 2012. A desperate Mahder went to Metropolitan to complain, saying he was sure the damp was affecting her health. Hiriti developed asthma, coughed up blood. After Merken's birth in January last year, Metropolitan sent a handyman to repaint >>>





>>> the bedroom walls, and install a small ventilator in the bedroom. The mould soon came back.

Mahder began to fall behind on rent; he had to spend money replacing things ruined by damp – mattress, bedframe, clothes. ‘I took my family to the housing office to discuss in person the problems,’ he said. ‘When the receptionist informed the housing officer that we had come to see her, she refused to see us and told the receptionist to tell us that nothing can be done until I pay the arrears.’

Up until the summer of 2011 when he lost regular work on a construction site, Mahder paid the rent on time. He put in a claim for housing benefit. The money arrived in November, too little, too late.

When Mahder found work again the following March, housing benefit payments stopped. The job paid £72 a week, not enough to cover the rent or clear the arrears.

‘It’s a common situation’, says Pete Elliott, a caseworker at Brixton Advice Centre. Pete also volunteers at a local food bank at St Paul’s church in Brixton. He sometimes bumps into former clients he has advised on welfare benefits or housing.

‘A lot of rent arrears are through welfare benefits not being paid properly,’ he said. ‘For the majority of our clients, it is because they start working 10 hours a week and immediately their Jobseeker’s Allowance gets stopped and recalculated.’

By 2013 Mahder’s arrears exceeded £2,000. When Merken got sick, Mahder spent what little he earned trying to clear the mould. The family moved Merken’s cot into the living room, the adults took turns sleeping on the two-seat sofa.

Then in April 2013, Metropolitan served Mahder with an eviction notice: ‘You have failed to make satisfactory payments to clear your arrears, so we are in the process of applying to the County Court for possession of your home.’

Did this mean that Mahder and his family would be evicted and re-housed?

No. People evicted due to rent arrears are considered ‘intentionally homeless’; the council is under no obligation to re-house them. Mahder and Hiriti were miserable in their squalid flat, but now they faced something worse.

Across the river Thames in Stamford Hill, one private landlord has decided to evict tenants two months earlier than planned. One Thursday in March 2014, the residents of a three-storey terrace house are given 15 minutes to pack and leave.

Two police vans, blue lights flashing, pull up in the large drive. Around half a dozen police officers and High Court sheriffs pile out. They break into the house, run up and down the stairs, shouting over and over: ‘You have to leave, you have got 10 minutes!’

The house is sectioned into 22 rooms, each one a home for families, couples, and individuals. Some of the residents try to show the sheriffs an order with the original eviction date: 22nd May. They are ignored. Other residents gather what they can, piling clothes into plastic bags.

Libia Montaya, a 57-year-old cleaner from Colombia, lives alone in a small room on the top floor. She’s had a difficult few years. She separated from her husband and is estranged from her daughter. She is on medication for depression. Her hours at work have been cut.

When the sheriffs bang at her door, she crumbles. ‘Why is this happening? Someone help me please.’

Libia struggles to breathe, her head is spinning. Terrified, she rushes into the toilet and in her distress grabs a bottle of bleach and tries to drink it. The officers tackle her, handcuff her, and then she blacks out.

Some of the residents spend the night in a nearby park. Others stay with friends or find hostels. One group takes a bus to the local town hall. They find the grand Art Deco building closed, and try to bed down on the stone steps. Security guards order them to move on.

In the morning they are first in line for the council’s housing officer. The families with children and an elderly woman who recently suffered a stroke are given temporary accommodation, but 16 adults are ineligible for help. Around 5pm they are sent to the local law centre.

Nathaniel Mathews, a senior solicitor for Hackney Community Law Centre, immediately gets to work on their case. He applies to the High Court for an interim injunction against the eviction. The warrant for possession was obtained unlawfully and the residents have the right to challenge it in court.

Nathaniel, a tall Englishman with a shoulder-length ponytail and bemused expression, converses with the residents in fluent Spanish (most are originally from South America). He will need immaculate financial information from each tenant otherwise the legal aid agency could refuse to fund the work.

Hackney Law Centre, like legal aid providers across the country, has struggled to stay afloat



after more than a decade of cuts. Legal aid 'reform' means only the very poorest are eligible for legal aid, and even those on income-related benefits do not automatically qualify. Drastic cuts have been made to advice and representation for housing disrepair and welfare benefits. There is nothing for employment and debt.

The injunction has been granted. One Mr Justice Collins rules that the landlord, named as Destbray Limited, must allow the 16 tenants to re-enter the property. They can return home, for now.

Back in South London, in January 2014, with the help of Brixton Advice Centre, Mahder kept his home, negotiating a repayment plan of £3.60 a week on top of his rent. Hiriti was pregnant and their case against the housing association was due in court within weeks. In court Mahder's lawyers would argue that Metropolitan should waive the arrears and cover the cost of extensive work to improve the ventilation in the flat. Then Hiriti miscarried. Mahder blames stress caused by their housing situation. As well as the damp and debt, the couple had to contend with a broken kitchen sink. They placed a large bucket under the sink, emptying it three or four times a day. Mahder says this went on for 'several months' before the sink was replaced. In February 2014, Hiriti's doctor wrote a letter which said: 'I would be grateful if these repairs [to the sink] could be carried out as soon as possible as in her present condition she cannot manage to carry these heavy loads. She is also complaining of back pain and abdominal pain relating to this.'

Mahder went to court in February 2014. He had managed to reduce the arrears from

£2,292.80 to £953.70, partly by borrowing money from friends. He told the court: 'Since I've moved to the flat I have been miserable as the housing office neglects our needs. We are physically, emotionally, mentally drained from this situation and still saddened by the loss of our unborn child and nobody seems to understand.'

Metropolitan agreed to waive the arrears and carry out improvements to the flat. The court order decreed that work must begin within 28 days.

After leaving the Hackney Law Centre, the 16 tenants broke into their home. In the time they had been away the landlord had changed the locks and the house had been vandalised.

Mattresses slashed, toilets ripped from the floor surrounded by broken tiles, cisterns discarded in the yard, windows nailed shut. Chunks of plaster gauged from walls. Clothes left behind strewn across rooms. No heating or gas.

Diego was embarrassed. 'We usually keep the house very clean, we don't live like this,' he says. The trim, pepper-haired Colombian is 45. Before moving to London, he lived in Spain for 10 years – he was a social worker for a charity, providing support for new migrants and refugees.

Now Diego earns slightly more than the minimum wage as a cleaning supervisor for an agency contracted to clean offices at Canary Wharf, the financial district across the city in East London. He paid £550 a month for his room with a double bed, a sink, a wardrobe, and a portable shower. But, he says, it will be difficult to find somewhere similar. 'They want £1,200 or £1,300 and you see the flat and you want to cry.'

Libia paid £433 a month for her room, slightly smaller than Diego's and without a shower. She earns about £200 a month from her cleaning job and receives £83 a week in housing benefit. 'I am too exhausted and too tense,' she says. 'I can't think about where to go or what to do. Committing suicide was the only way to leave behind all of these problems.'

Who owns the house? The tenants don't know. They paid their money to managers who say the house was sold several months ago. Whoever owns it wants rid of them before the agreed notice period. 'I imagined London to be a city that welcomed you, but it's the opposite,' says Diego, 'I think London is becoming a city only for rich people.'

Nathaniel from the Hackney Law Centre says the exploitation of poorer tenants is routine. 'We have got tenants in low paying jobs from abroad, all cleaners, in relatively cheap but completely unregulated accommodation. It is not uncommon for landlords one way or another to evict these people whether through the courts, or not through the courts, and often giving them no notice at all. You have got people who just don't know their rights.'

In a statement about Mahder Redie's flat, the Metropolitan housing association said: 'We settled compensation in February and agreed to carry out improvement works. A maintenance survey report was undertaken before then which identified a condensation issue and suggested an action plan to remedy the situation. The condensation was found to be as a result of a number of factors, including ventilation and heating, rather than attributable solely to the structure of the building.'

We aim to carry out repairs quickly and efficiently... and we have regularly attended the property to carry out improvements to assist the resident with managing the condensation. Unfortunately, it reoccurred. Prior to the legal process, we have no record of the resident making a complaint through our complaints procedure.'

On 3rd April 2014, the Redie family waits for a repairman to arrive between 8am and 1pm. They finish lunch and Mahder looks at his phone.

Around 1.15pm he calls the housing association to find out why the repairman has not shown up. The visit is rearranged. Mahder tries to sleep before his next shift at 11pm.

Rebecca Omonira-Oyekanmi is a freelance journalist and writer-in-residence at Lacuna. Her reporting on immigration and asylum across the European Union was shortlisted for the 2012 Orwell Prize for Political Writing (blog category). In 2012 Rebecca published *Gardens*, a collaboration with photographer Christina Theisen, which documents pockets of environmental and social activism in London. The illustrations are by Patrick Koduah, whose prizewinning work includes projects exhibited in the Embassy of Japan and music video animation for the Rolling Stone Band of the Year 2012. This collaboration between Rebecca and Patrick first appeared in *Our Kingdom* and the independent Quaker magazine, *the Friend*. Their first collaboration, *The Lone Parent Trap*, was published in August 2013. This article is reprinted here with the kind permission of the author.

Bringing forty years of tumultuous history to life

Darcus Howe: A Political Biography

By Robin Bunce and Paul Field
Bloomsbury Publishing

The struggle for racial justice in Britain, in which Darcus Howe has played a key role, began in Camden's Roundhouse in 1967 with the arrival of Black Power in Britain. The struggle has by no means been won to this day. The concluding pages of this book contain Howe's commentary on the 'England Riots' of August 2011.

This new book, co-authored by Haldane Society member Paul Field, is passionately conceived, thoroughly researched and very well written. It is highly recommended.

I have to declare an interest. I appear briefly on page 123 in the context of the April 1981 Brixton Riots, when I was an elected Lambeth Borough councillor for Herne Hill ward, which included Railton Road, the epicentre of the riots. I was also a member of Lambeth Council's working party on community-police relations, which published its report in January 1981. We reported that Brixton was in a 'state of siege' as a result of the police's Operation Swamp and that many in the community saw the police as an 'army of occupation'.

The authors are to be commended for their accuracy and objectivity as well as the skill with which they bring key events of the last 40-plus years to life.

Rhett Radford Leighton Howe was born in 1943 in a village in southern Trinidad. He was the son of the local head teacher. When he was 10-years-old he won an exhibition scholarship to Queen's Royal College in Port-of-Spain, following in the footsteps of CLR James, his great-uncle. He became close to the Renegades gang and at

the age of 14 underwent his political awakening in the ranks of the newly formed People's National Movement. He left Queen's Royal College in 1961 and travelled to England where for two years he studied law at the Middle Temple. In 1964 he attended a speech by Martin Luther King. In 1965 he shook the hand of Malcolm X in Notting Hill. In August 1968 he became

involved in the British Black Power movement and formed his own group, the Black Eagles. Their first campaign was launched straight away: setting up street patrols 'with the aim of policing the police'.

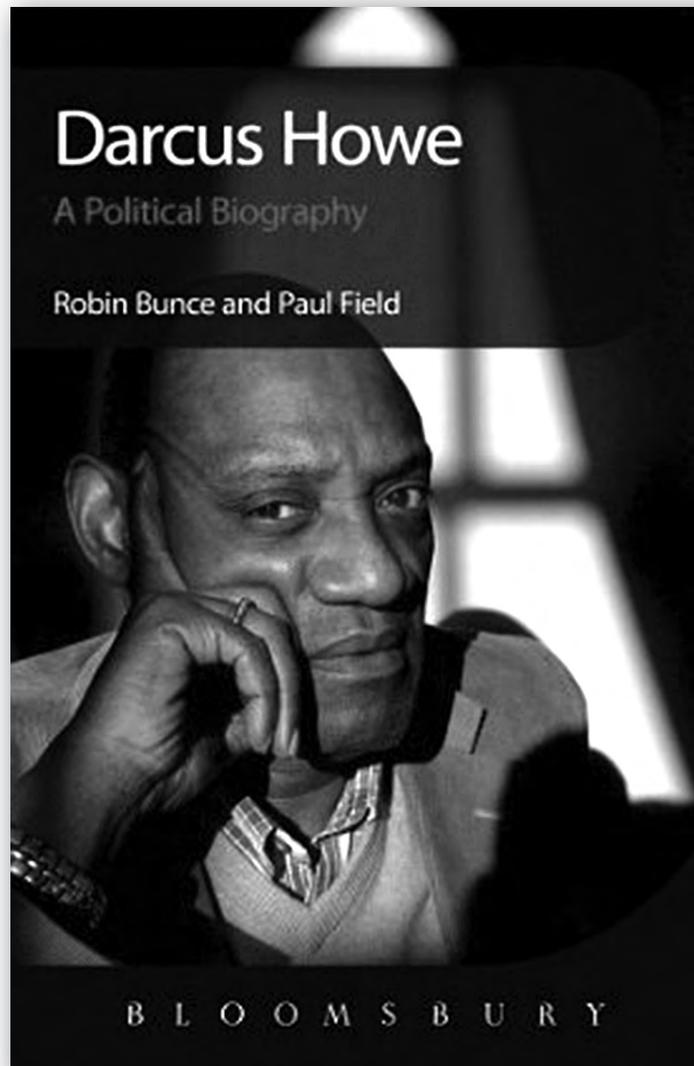
But the key influence on him was CLR James, to whom he remained close for all of James' life. Shortly after arriving in Britain he read James' *The Black*

Jacobins. As a result of re-establishing his relationship with CLR James, Howe decided in October 1968 to abandon his studies (he had planned to study philosophy at York University), sell his house in Crouch Hill and travel to Canada to join CLR James at the Congress of Black Writers. This was Howe's 'post-graduate education'.

CLR James and Howe together read the first three chapters of Karl Marx's *Capital*, and Fanon's *Wretched of the Earth* and *A Dying Colonialism*. However, the key impression made on him was by James' own *Modern Politics*. James rejected the Leninist and Trotskyist notion of a vanguard party. Howe summarised the result of his political education as follows: 'All movement comes from self movement and not from external forces acting on the organism.' Howe played no part in British left politics. His aim was to put the ideas of CLR James to work in Britain. For the last ten years of his life, from 1982 onwards, CLR James lived with Howe and the members of the Race Today Collective in Brixton.

Howe returned to Britain in early 1969, but in April 1969 he travelled to Trinidad where he took part in Trinidad's Black Power revolution. This ended when Britain sent two warships and Royal Marines to shore up the regime. Howe returned once more to Britain.

In August 1970, Howe became famous through his involvement in events related to the police persecution of Notting Hill's Mangrove Club. He was arrested and charged with affray. Nine accused, including Howe, were sent for trial at the Old Bailey. The trial lasted 55 days. A mass movement appeared in support of the accused. They were greatly assisted by the young radical barrister Ian Macdonald. Howe represented himself and ensured that the jury heard his views on police methods, race relations, colonial history, council politics, and the conduct of judge and prosecution. All nine were acquitted of incitement to riot.



Four were convicted of assault, and their sentences were suspended.

Howe was prosecuted on several occasions. These included the 'Old Bailey Three' trial in 1972 and his trial for Actual Bodily Harm in 1977. Howe could say of himself 'six times framed and six times freed'.

Howe also joined the Black Panthers and late in 1973 the Institute of Race Relations (IRR). He joined as editor of *Race Today*. This was a short-term relationship. In August 1974 he left the IRR and took *Race Today* to a squat in Brixton, first at 74 Shakespeare Road, then from mid-1982 at 165 Railton Road, where the Race Today Collective was formed. This was an educational project. Howe did not get involved in the larger political movements at the time. For example, in 1978 Ted Knight and his supporters, on the left of the Labour Party, came to power in Lambeth Borough Council, were re-elected in 1982, and waged a principled fight against rate-capping which ended in 1986 with the surcharge, removal and banning from public office of a number of Lambeth councillors, including several black councillors and the first black Mayor of Lambeth. Howe and *Race Today* did not participate.

Howe lost interest in *Race Today* and from the mid-1980s turned to television with the *Bandung File*, which continued for six years and broadcast 91 episodes. From 1992 to 1996, he was involved in the television show *Devil's Advocate*, which ran for six seasons and 36 episodes. Howe had become a media star. As well as his broadcasting work, he was also a regular columnist for *The New Statesman*.

Howe was never an organiser, nor a leader. He has played a very considerable role in the movement for a distinctive black British identity. This new book brings the man and 40 years of tumultuous history to life. It also never forgets the impact of the political analysis which Howe learnt from CLR James.

Bill Bowring



Learning lessons

Chile's Student Uprising

Director: Roberto Navarrete
Alborada Films 2014

This short documentary film of 35 minutes gives a flavour of Chile today.

The film opens with the former President, right-winger Sebastián Piñera, talking about his support for the neo-liberal status quo and private investment in everything, including education. The film points out that the OECD, of which Chile is a member, criticised Piñera's education policy. In an interview, Piñera talks about the importance of education, but when the interviewer assumes he means public education, he is quickly corrected by Piñera, who clarifies that he means 'private education'.

The film then focuses on the student demonstrations that erupted in 2011, having initially begun with secondary school children protesting in 2005 which is illustrated within the documentary.

The film flashes back to the election of Salvador Allende and his commitment to making Chile a more equal society, nationalising health, education and also the mining industry. The film moves on to look at the US sponsored coup led by General Pinochet in 1973, following which most of the nationalisation was undone and education was opened up to private profit. Pinochet signed many of the privatisations into law 'for perpetuity' on his last day in office, after he lost a plebiscite in 1988.

Camila Vallejo, a major leader of the student demonstrations of 2011 prior to her recent election in 2013 to the Chilean parliament as a representative of the Communist party, speaks with confidence about her transition from a young first year student in 2005 to being a leader of the movement. Many students voice how the demonstrations have taught them things they cannot learn in schools.

During the film, one demonstrator comments that 'the neo-liberal model is profoundly inhumane'. Piñera's response to this was to argue that free education for all would put a burden on the poor, ignoring the call for tax reform that would lead

to more equality. His argument was to say that 'nothing is free in life' and the poor would also have to pay for the education of the rich through their taxes.

The film captures the use of water cannons and tear gas by the police on the large numbers of students who protested in the streets, while the student led movement leads to a larger campaign to build participatory democracy in Chile.

The film concludes with an epilogue showing the end of Sebastián Piñera's time in office and the re-election of President Michelle Bachelet. Four of the student leaders involved in the 2011 protests were also elected as members of parliament in Chile's 2013 general election. The articulate Giorgio Jackson was one of them, as was Camila Vallejo.

The film gives a good summary of Chile's recent history but is perhaps less satisfying for those who know it and have lived through it. It nonetheless opens up debate on a fascinating, disparate and complex movement of students who seem to have cast off the fear instilled in Chile's citizens by the dark days of General Pinochet's dictatorship.

Martha Jean Baker

Guiding light for a fair trial



Amnesty International Fair Trial Manual 2014, Second Edition

Expanding on the original edition published in 1998, Amnesty International's new *Fair Trial Manual* provides a detailed, comprehensive and accessible guide to the right to a fair trial, one of the universally applicable guarantees recognised in the Universal Declaration of Human Rights adopted in 1948.

There is an excellent

introduction to the various international human rights standards relevant to fair trials and to the bodies that give authoritative guidance on how such standards should be interpreted. Universal treaty and non-treaty standards are succinctly explained and there is reference to instruments not yet formally adopted and other principles drawn up by international experts.

Regional treaty standards of the African Union, the Organisation of American States, the League of Arab States and the Council of Europe are set out and reference is made to the UN thematic mechanisms such as the work of Special Rapporteurs as they pertain to fair trials.

Broken into three broad sections covering pre-trial rights, rights at trial and special cases the main body of the manual then explains the relevant legal framework at every juncture, using extensive footnotes and separate cross-references in the text margins to the key treaty and non-treaty sources.

The manual will therefore be an invaluable resource to those seeking to further their understanding of the relevant principles in general and will be of specific interest to journalists, activists and lawyers alike if tasked with trial observation or reporting.

Embedded in Amnesty's work is the struggle for the abolition of the death penalty worldwide and the chapter covering capital cases contains enlightening references which will also signpost readers who wish to deepen their knowledge of that particular issue.

Fair trial rights during states of emergency, in armed conflict and the use of special and military courts are also explained. These sections will be of particular interest to those reading through a political lens in the post-9/11 context which saw the United Kingdom derogate from the European Convention on Human Rights in a manner deemed disproportionate and discriminatory regarding the indefinite detention without trial of foreign nationals.

As well as being a practical resource, the manual is a reminder of the importance of Amnesty International's credible and comprehensive work which consistently nurtures and encourages the movements to defend human rights and the wider struggle for deep-rooted social change across the world.

John Hobson

Conscious and witty poetry

Acapulco: New and Selected Poems

By Nicholas Murray
Melos Press

Acapulco is the fourth such collection of poetry by Nicholas Murray, a freelance writer who splits his time between London and Wales and who, aside from poetry, has written two novels and several acclaimed biographies on figures such as Franz Kafka, Aldous Huxley and Matthew Arnold. *Acapulco* is broad in its scope, presenting 30 new poems by Murray, followed by work drawn from his earlier poetry collections, *Plausible Fictions* and *The Narrators*, and concluding with *Get Real!*, a satire on the Coalition Government, first performed in 2011.

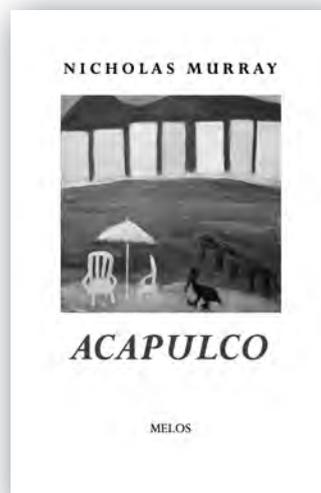
The collection opens with poems that exemplify Murray's honed brevity and precision in lines like: 'Your silence grows in us, / expands like rising dough, / until we reach the street / and find

ourselves, altered, / in an exalted elsewhere', from his poem *The Bedroom*.

While Murray does a good line in terse, unsmiling poetry, better still are the poems which follow, full of everyday details: 'bulldozers, hard-hats, high-viz tabards' in *Culture Capital* and 'the white table and chair are waiting for the man / in a garish shirt and the knobliest of knees' in *Acapulco*.

Murray writes best when he is having fun, and the title poem of this collection, *Acapulco*, is of this order, being unpretentious and quietly charming. It presents the familiar image of a beach resort and a tourist, each waiting in anticipation of the other, only to be playfully uprooted by the threat of a pelican ordering drinks, a surreal symbol of competition and natural order.

Other new works like *Courage* and *Food* speak of social unease, revealing a community unable to heal itself because it sees only its



smaller, divisive identities. *Courage*, dedicated to Peter Tatchell, is exquisitely phrased. It renders a picture of gay rights activism and protest in which the battle is not only between the proud and the phobic but in which the 'security forces' are recognised as an equal player.

Right at the heart of Murray's *Acapulco* lies work from his previous collections. Reading poems like *The Suicide* and *Der Führer*, with its 'gap-toothed

terraces', it is easy to see why he could not resist the impulse to reprint.

By contrast with these timeless poems, *Acapulco's* conclusion with *Get Real!* lands us squarely back in 2011. Originally published as a pamphlet, this irreverent verse satire broken into five parts works best as a historical document. Murray's reproach of austerity still rings true, if not louder than ever.

Murray's is a collection in reverse, neither a chronologically faithful anthology nor a thematic catalogue of his work. Rather you get the feeling of the poet looking back over his work with you, having written new poems but not, perhaps, having the conviction to let them stand alone.

Indeed this is the central issue with Murray's collection, which while stuffed with pathos, humour and a social conscience, doesn't quite work together as a whole. It is because of this that the potency of Murray's rich images, deft phrasing and wit disperses and fades, much sooner than it should.

Natasha Lloyd-Owen

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