Responding to 11th September
New anti-terrorism Act
Invading Iraq
Palestine
International Criminal Court
Women in the Law
Justice For All
Columbia
Gurkhas
Stop the war

For socialists everywhere there is one immediate cause, one campaign and one rallying call: stop the war. Since 11th September 2001 the United States and its allies have been engaged in a violent and arbitrary campaign to produce a global order in their own image at the expense of global social and political justice. Through the use, and threat of use, of force people from the Pashtun areas of Afghanistan to Palestine have been coerced and intimidated, killed and injured, in an unprecedented expansion of American power. The result is a profoundly dangerous world where impotent and powerless people are full of political rage at their condition.

As socialists and radicals the members of the Haldane Society and the readers of Socialist Lawyer should be working and organising to build support for the Stop the War campaign. Socialists in Europe and north America must work to build cross-community alliances and groups, and to organise the broadest possible coalition of resistance and dissent. In the United Kingdom the majority of people, from all backgrounds, are opposed to the war. This opposition needs to have coherence, to speak clearly and to make its opposition to war decisive. Socialists have a vital role to play in ensuring this outcome.

In the United Kingdom the New Labour administration has massively strengthened the power of the state over individuals and communities. The Anti-terrorism, Crime and Security Act 2001 marks a new low. It provides the government with an arsenal of lawful means to observe, monitor, discipline and coerce people whilst keeping the courts at arms length. For non-nationals the introduction of internment or administrative detention under the 2001 Act starkly shows the limits of the Human Rights Act 1998 as a source of protection.

The impact of the new laws is most keenly felt by migrant and recently settled communities and people of different ethnic and cultural backgrounds. Race relations have been prejudiced and jeopardised by the stigmatising of some Arab, Pakistani and other Muslim communities as sources of internal threat. Refugees, those most vulnerable and fragile people, have become objects of fear. Yet ironically war in the Middle East is only likely to lead to an increase in the numbers of people seeking safety and refuge in this country.

Around the world the safeguards of law have been shown to be ineffective. Since 11th September 2001 there has been a proliferation and strengthening of U.S. military bases across the Middle East and Central Asia. American troops seize men in states from Bosnia to Pakistan and take them, without following any legal process, to Guantanamo Bay, where there are held beyond the reach of any court. At the same time states are threatened with force and punishment if they do not co-operate with the administration in Washington in its global campaign.

Yet the issue is not whether a particular attack is lawful or not under international law but whether it is an act of violence, force and organised power against weak and oppressed people. Socialists everywhere must resist such attacks and work for international social, economic and political justice. The immediate future is threatening and bleak. However through organising the resistance and the opposition to the war that exists, socialist and radical lawyers can make a decisive intervention and work for a more equal global society.
Colombian lawyers in peril

Marta Hrinestroz and Carlos Sánchez are representing 200 peasant families who are victims of environmental and human damage caused by the oil industry, for which, it is asserted, BP is partly responsible. They have been fighting for just compensation for these families for seven years now, in the face of continuing death threats from paramilitary forces, demanding that they drop the case and their claims for compensation. As a result Marta has had to move house three times in the past two months, and continues to receive threats and mysterious phone calls.

The Haldane Society has contacted British authorities in the hope of persuading them to be more pro-active in protecting the lawyers, and to support them. We will update this posting in due course.

News

Columbia lawyers in peril

The Haldane Society of Socialist Lawyers is gravely concerned for the safety of three Colombian lawyers, Marta Hrinestroz, Carlos Sánchez, and Claudia Sampedro. One of the lawyers, Marta, has been placed on a paramilitary "death list," and all three of them are in grave and continuing physical danger.

The three lawyers visited England in April 2002 to publicise the case against BP. Some will have met them while they were here. On Monday 22nd April 2002, the lawyers met with the Haldane Society. At that meeting, it was agreed that priority must be given to protecting the lawyers' safety: it is felt that the trip has made Marta Hrinestroz, in particular, a more high profile target and we are extremely concerned for her safety.

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Columbia: stop the attacks

We are extremely concerned to hear that paramilitaries have made death threats against campesinos in Zaragoza municipality (Antioquia) and their lawyer Marta Hrinestroz who has lodged civil suits against the pipeline companies ODECOOT CENTRAL S.A 'OCENSA' and ODECOOT COLOMBIA 'ODC'. We urgently ask the civil and military authorities to take measures to protect their lives.

Please send completed petitions and letters of protest to the following:

ODECENsa Managing Director, Bogotá, MANUEL CASTRO BANCO, Ocenisa, Calle 79 No 11-17 Bogotá, Colombia, Mobile: (+57) 3446699, tel. direct (+571) 3250345, Switchboard: (+57) 325 0302 ext. 0345, fax: (+57) 217 4801, email: r_castro@ocensas.com

Oesensa, local manager in Antioquia, LUIS CARLOS GARCEA, Ocesens, Carretera Troncal frente al aeropuerto, Caucasia, Antioquia. Tel. (+57) 4 8920 9993

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Governor of Antioquia, EUGENIO PRETO SOTO, Gobernador de Antioquia, Calle 42 5 650-100, piso 12, Medellín, Colombia, Tel. 0057 4 381 1099 or 0057 4 381 1466

Ambassador Colombian, Brussels, CARLOS CASTRO BLANCO, Dirección General de Asuntos Extranjeros, Ministerio del Interior, Calle 42 5 650-100, piso 12, Medellín, Colombia, Tel. 0057 4 381 1099 or 0057 4 381 1466

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Hemos tenido conocimiento de amenazas de muerte por parte de paramilitares contra los campesinos del Municipio de Zaragoza Antioquia y su apoderada MARTA HINISTROZ, quien ha presentado demandas civiles contra las sociedades ODECOOT CENTRAL S.A 'OCENSA' y ODECOOT COLOMBIA 'ODC', por los daños y perjuicios que fueron ocasionados con la construcción de tales oleoductos, por lo que solicitamos enérgicamente que las autoridades civiles y militares les brinden las medidas de seguridad pertinentes para la protección de sus vidas.

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TRIBUTE: JOHN PLATTS-MILLS QC

In August last year Rebekah Wilson, Secretary of the Haldane Society, interviewed John Platts-Mills on behalf of the Haldane Society. This is her personal account of that interview.

All of ‘muck, sex and socialism’

John Platts-Mills had been the Society’s supportive and always present President for longer than I could remember and certainly a member long before many of us were born. But even in his nineties he always had time to give to the Society. Given his generous nature it was no surprise then that he agreed to sit down with me, a young Lawyer. Aged 95 and busy as ever he was still happy to give an interview. Prior to the interview I had spoken to some of John Platts-Mills’ colleagues who were in chambers with him at Cloisters. From this I began to understand the breadth of his activities, but nothing could have prepared me for just how vibrant and rich was his contribution throughout the years to law and politics on an international and national scale.

The interview took place in his home in the Temple. His warmth and intelligence was immediately apparent. I asked him about his initial involvement with the Haldane Society.

“I became involved in the Haldane Society in 1936. Mrs Platts-Mills wanted me to join them and time for her painting. She didn’t want me hanging around the house in the evening so I found myself something to do. I found the Labour Party, soon joined everything and was fully involved in the Haldane Society. However the Haldane allowed Commonwealth lawyers to join. This gave Jo Goodwin a chance to have the society called out of the Labour Party. Which it was. Jo Goodwin did it because he was ambitious and had his eye on the job of Lord Chancellor which of course he became under Harold Wilson’s government.”

John Platts-Mills was renowned for his commitment to human rights activism on an international level. He helped to form the International Association of Democratic Lawyers, the IADL, and described how at the beginning of the Second World War he helped organize foreign lawyers into being left wing lawyers. He was also important within the Labour Party. The Haldane Society remains affiliated to this international organization to which John Platts-Mills gave so much of his time. During the society’s recent trip to Cuba for the IADL Congress the week was spent fielding questions from IADL members about Cuba. Condemns from all over the world thought so highly of him. It was almost staggering to hear of the impact that he had made internationally.

A successful silk and advocate I wanted to know what inspired this New Zealander to want to practice at the Bar in the UK.

I had been all set to go to New Zealand when I was finishing my degree at Oxford in 1931. My tutor persuaded me to stay here and practice law. My pupillage was completed at a mixed set. In fact, until I took silk I had only been to the Old Bailey about five times, but then that all changed.”

JPM recalls with fondness how his criminal practice took off. “I acted for Ronnie Biggs, one of the Great Train Robbers, in his appeal. There were about 20 barristers and out of all of them I’d managed to think of a new point. Through this one brief I took to crime, then I was at the Old Bailey all of the time. It got to the point that they actually got me lodging there at the Old Bailey. I practically lived there for five years working on cases the entire time.”

JPM was outraged that Biggs is now imprisoned and passionately points out that Haldane members should be doing something about it.

John Platts-Mills combined a political career along with his legal practice from the outset. He was the MP for Emsbury Borough for five years between 1945 and 1950. An outspoken critic of the government he explains how he lost his seat. “Gerrymandering ensured that I didn’t get to keep that seat. Part of the constituency was joined with Shoreh and I lost the majority I had”. He goes on to describe with pride the fact that, “I was checked out of the Labour Party for being too cheeky about the Russians. I was too outspoken for the then Labour Government. Particularly Bevin then Foreign Minister. I asked too many questions of the government and their foreign policies. I had studied the papers very diligently. The Foreign Secretary had suggested I should go back to Moscow. I asked him if he would care to explain this to the House.”

John Platts-Mills was seen to be on the hard left of the party. He was the President of the Haldane Society and a member of many other left wing organizations. In 1948 he along with 38 other Labour MPs had signed a congratulatory telegram to Pietro Nenni, leader of the Italian Socialist party. Of course the Labour NEC had already sent a message of support to the non-communist supporting party. John Platts-Mills was the only MP to be expelled from the Party. It wouldn’t be until 1969 that he would be allowed back into the Party.

In 1949 he volunteered for the RAF for a few months before he was informed that his services were not required. Probably at the intervention of the Secret Services. However 1941 saw a change in the then Government’s stance to this outspoken lawyer and anti-fascist activist. The Germans invaded Russia handing the British an unusual ally. “Winston Churchill sent me for the war. I want you to re-educate people.” Churchill explained, “Since 1918 we’ve been teaching British people that Russians are not human, that there is no good in them. I’ve been teaching the British that they eat their young. For the sake of the war effort change the public perception of them. Do this with Stafford Cripps and do what he tells you.” And so we organized an essay competition for school children to leave school. The title of the essay was, “What will you say next time I meet Stalin?”. There were several necessary subtopics. The winning entry went around with their entries and their teachers on Town Halls in London.

I asked John Platts-Mills what he thought of the Bar now, and how he had survived in the early years. He explained, “I was a lawyer steeped in the first few years. Then during pupillage the Road Traffic Act requiring everyone to have road insurance had recently been passed. There was lots of work and I was able to earn a guinea for each case.” He described how, quite shockingly, he found the Bar, “The same really, even since 1952. But there are more women, as there ought to be.” And with a look of seriousness and perhaps even a hint of regret he pointed out that, “Men should be at home and women out at work”. A remarkable observation from a 95 year old male barrister.

I could’ve listened for hours but I had to remind myself that this ninety-five year old man had to do. I was almost overcome by the magnitude of information about “John Platts-Mills’ political and legal activities. The good news is that he has written his autobiography. He showed me the manuscript. I think he wants it published. I know it will be a fascinating read when it’s published.”


4th October 1994 - 26th October 2001

by Michael Mansfield

PM, as he was affectionately known, will be remembered as a colleague and friend of mine for many years, and recently joined my chambers. This will be a treasured memory, because, for many radical spirits at the Bar, he had, beyond anyone else, steadfastly represented the attributes of courage, principle and learning, all securely bound by an incisive and powerful advocacy.

At his 95th birthday celebration, he treated everyone, as ever, to a beautifully crafted and poignant speech, in which it was clear that, if he had been fit enough, he would have been on a plane to Afghanistan to provide a peaceful channel for the resolution of the current conflict - a task he had performed with consummate skill, unwavering and unceasingly over the last four decades.

His life was a history of the 20th century, played out on a domestic and international stage, in which he persistently struggled to secure political justice for those individuals and communities facing oppression and violation of their human rights. As a result, there are few eminent and celebrated political figures in government who have not been touched by his work.

Wherever he appeared, his intellectual and physical stature provided a magnetic focal point that commanded both respect and attention in equal measure. Only JPM could have turned up to address the demonstrators during the Grovick dispute in 1977, dressed immaculately in pinstripes and bowler hat! When he spoke, there was a stillness and silence even among the riot shields. When taken to task at the Old Bailey by Mr Justice Melford Stevenson, about a ground breaking cross-examination - in which he had exposed the fallibilities of forensic science by a masterful demonstration of how a fingerprint could be removed from one surface and placed on another - he conquered all by a dignified and robust composed.

He maintained a tireless commitment and energy until the end. In 1995, he returned to politics as a Common Councilman of the City of London, where he could be seen welcoming the Commonwealth heads of government as well as participating in day-to-day policymaking.

Meanwhile, he kept his hand in the courts. At Southwark Crown Court in 1996 he successfully tested officers of the Metropolitan Police Obscene Publications Squad about the precise use to which inflatable sheep could be put.

Earlier last year, he was particularly moved by an opportunity to represent three families in the Bloody Sunday Inquiry in my absence. When I returned, it was remarked that I was but a shadow of my former self. He’s a shadow that will extend over our thoughts for years to come.

The title of his autobiography neatly describes his life, and succinctly provides an epitaph looking back to his Bevin-boy days — Muck Silk And Socialism.

First published in ‘The Guardian’.
Women in the law: the current challenge

by Tahmina Mollah

D o women still face challenges today? Contrary to popular belief, women continue to face many challenges every day of their lives. What are the challenges? Rights of Women and the Haldane Society of Socialist Lawyers had a joint meeting to discuss these very issues titled ‘Women in the Law: The Current Challenge’. The speakers were Baroness Helena Kennedy QC, Tahmina Mollah from the Southall Black Sisters and Liz Davies, Barrister and former member of the Labour N.E.C. Catrin Lewis, chair of the Haldane Society, chaired the meeting, which was attended by over one hundred people.

Helena was the first to address the meeting. She pointed out that there were plenty of areas of setbacks for women within the law. Women are often victims at the hands of the law, of the judiciary and courts, even the selection of the judiciary disadvantages women. Helena has been arguing for equal treatment for women since the beginning of her career. Some progress has been made; however, there have also been occasions where equal treatment of unequal people has created more inequalities. Male judges still use words appropriate for men without taking into account gender difference. She argued that to recognize difference, one must look at how to create substantive justice, for example, when a marriage comes to an end and a woman has been a primary carer all her life. Women’s lives are different from men’s until the law recognizes the substantive differences it will continue to disadvantage women.

Many people were looking towards the Human Rights Act as a possible means of protection. Yet the Act has brought with it a different sort of challenge that of balancing competing rights. Last year Helena Kennedy pointed that the House of Lords in a male accused case was arguing that the right to a fair trial was being violated. The Act requires a balance to be struck between the civil liberties of the accused and the rights of the victim. More often than not, she argued, the law favours men.

Tahmina Mollah from Southall Black Sisters then spoke powerfully and informatively. She condemned David Blunkett’s comments on ethnic minority communities failing to “integrate” into communities, and having to take up British norms of life before becoming a British citizen. She pointed out that the Labour Party claims to give respect to multiculturalism and yet now multiculturalism is being blamed for social problems.

Helena Kennedy argued that multiculturalism had also failed black and Asian women. Women from these communities do not receive any support either from their communities or the law. Politicians do not like to comment on community issues for fear of causing offence - to men! Helena raised the case of Zebra Shah who killed her husband after years of abuse. The Court of Appeal dismissed her appeal remarking “what honour has the woman to safeguard?” In order to understand Ms Shah’s case an understanding of multiculturalism is essential. So far through, multiculturalism seems like a trendy concept; it has done nothing to help or further black and Asian women’s causes. As a campaigner for women’s rights, Ms Siddiqui would like to see the government taking more positive steps in securing rights for women, especially women from ethnic minority communities.

Finally Liz Davies praised ROW and the Haldane Society for organizing such an event and observed that women’s rights are not spoken about often enough. Liz began by looking at the demands of the 1970s women’s liberation movement and what had been achieved so far. Of the demands that women made in the 70s some improvements have been achieved but not by far enough. Advances had been achieved in relation to free abortion and birth control, women do have more rights that the previous generations but are still left to hold the baby at the end of the day. Of fundamental importance is the serious lack of affordable and accessible childcare which compromises women’s choices in relation to working and family.

Domestic violence has been recognized more than it was 30 years ago. Provocation and abuse is recognized and rape in marriage is now a crime. But has domestic violence stopped? No, one in three women are victims of domestic violence at some point in their lives. In relation to sexuality, although lesbianism is still frowned upon, there are still no legal recognition of same sex relationships nor prohibition against discrimination on grounds of sexuality. So although significant changes did emanate from the movement, more needs to be done.

In Liz’s view the women’s movement has achieved a lot. What it had done more than anything was to create an expectation. Women of this generation expect equal treatment and opportunities. However women still earn much less than men in almost all fields. Despite this women try to dissociate themselves from feminism. So how is equality to come about? Feminism is still extremely important in order to shake up society and politics.

Being a former member of Labour N.E.C., Liz Davies knows very well how politicians tackle issues. She agreed that politicians have not done anything for women, rather, ‘politicians pick up women’s issues and appear to run with them’. Liz expressed her dismay at how this government turned on single mothers. Her argument was to bring domestic violence into the limelight again, and create more refuges. She wants to see men taking childcare just as seriously as women. The old demands are still as relevant today as they were 30 years ago.

In a final question and answer session Ranjit Kaur, director of ROW suggested that organisations work together using their experience to fight for women’s rights. The meeting agreed that the current challenge really is to get women on this generation to fight for their rights and revive their historical demands that still had to be met before women could really be said to have achieved equality.

Tahmina Mollah is a volunteer with figures of Women...
The proposals are an assault on jury trials and will undoubtedly lead to further attacks on this basic fundamental right.
Invading Iraq would violate US and international law by Marjorie Cohn

Despite opposition by many prominent Republicans, Dick Cheney and George W. Bush are mounting an intensive public relations campaign to justify their pre-ordained invasion of Iraq. A pre-emptive strike against Iraq would violate the US Constitution and the United Nations Charter.

Article I, section 8 of the US Constitution empowers Congress, not the President, to declare war on another country. The War Powers Resolution provides that the constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (a) a declaration of war, (b) specific statutory authorisation, or (c) a national emergency created by attack upon the United States, its territories, or possessions or in armed forces.

Congress has not declared war on Iraq, no statute authorises an invasion and Iraq has not attacked the United States, its territories, possessions or armed forces. President Bush’s lawyers have concluded that he needs no new approval from Congress. They cite a 1993 Congressional resolution authorizing the use of force in the Persian Gulf, and the September 14, 2001 Congressional resolution authorising the use of force against those responsible for the September 11th attacks.

These two resolutions do not provide a basis to circumvent Congressional approval for attacking Iraq. The 12th January 1991 Persian Gulf Resolution authorised the use of force pursuant to a United Nations Security Council Resolution 678, which contained an express limitation on the use of force. That license ended on 4th April 1991, when Iraq fulfilled its post-conflict obligations and satisfied the Security Council. The 14th September 2001 resolution authorised the use of armed force against those responsible for the recent [September 11th] attacks against the United States. There is no evidence that Iraq was responsible for the September 11th attacks.

A pre-emptive invasion of Iraq would violate the United Nations Charter, which is a treaty and part of the supreme law of the United States under Article 6, clause 2 of the Constitution. It requires that the United States to settle all disputes by peaceful means and not to use military force in the absence of an armed attack. The UN Charter empowers only the Security Council to authorise the use of force, unless a member state is acting in individual or collective self-defense. Iraq has not attacked this country, or any other country, in the past 11 years. None of Iraq’s neighbours have appealed to the Security Council to protect them from an imminent attack, by Iraq, because they do not feel threatened.

Cheney and Bush cite the possibility that Iraq is developing weapons of mass destruction as the rationale for a pre-emptive strike. Iraq is in violation of Security Council Resolution 678, which required full cooperation with UN weapons inspectors. But this issue involves the Iraq government and the United Nations. The Security Council did not specify any enforcement mechanisms to that or subsequent resolutions. Only the Security Council is empowered to take further steps as may be required for the implementation of the resolution. Although the Security Council warned Iraq, in Resolution 1154, of the “severest consequences” if its compliance with the resolution is not immediate, the Council declared that only it had the authority to ensure implementation of this resolution and peace and security in the area.

Articles 41 and 42 of the UN Charter declare that no member state has the right to use force in the absence of an armed attack. The UN Charter empowers only the Security Council to authorise the use of force, unless a member state is acting in individual or collective self-defense. Iraq has not attacked this country, or any other country, in the past 11 years. None of Iraq’s neighbours have appealed to the Security Council to protect them from an imminent attack, by Iraq, because they do not feel threatened.

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Responding to 11th: the framework for international law

This piece is a much edited version (by Adrian Berry) of a paper by Helen Duffy, Legal Director of Interights. For a fuller and better treatment of the law, readers are advised to look at the original (it can be found at www.interights.org).

I
Armed attack. Article 51 of the UN Charter states: All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, shall not be compromised. This includes arbitration, judicial settlement through the International Court of Justice (ICJ), negotiation and settlement under the auspices of the UN.

The question of the lawfulness of the use of force only arises in circumstances where there are no peaceful means at the aggrieved state's disposal, or where such means have been exhausted or found to be ineffective.

B. THE USE OF FORCE

The legality of the use of force under international law is 'just ad bellum'. The general rule, in Article 2(4) of the UN Charter, is that the use of force is prohibited. Article 2(4) obliges all Members of the UN to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State or in any manner inconsistent with the Purposes of the United Nations. Certain exceptions to the prohibition on the use of force are contemplated. Leaving aside the question of humanitarian intervention, which has not been invoked in the present situation, the exceptions involve:

(i) the use of force in necessary self-defence, and
(ii) Security Council authorisation of force, on the basis it is necessary for the maintenance or restoration of international peace and security.

B. (i) Self Defence

Article 51 of the UN Charter states: "Nothing in the present Charter shall impair the inherent right of individual or collective self defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. 'Defence' is distinguished from prohibited reprisal. The threat to the state must be immediate and identifiable. All measures must be necessary to remove or counter the threat, and proportionate to it.

B. (i) Individual or Collective Self Defence

Self defence can be individual or collective. The scope of 'collective' self defence may be relevant to the legitimacy of the use of force by states which were not the victims of the 'armed attack'. The recognition of the collective nature of the right is reflected in Article 3(1) of the NATO treaty.

B. (ii) Conditions for the Exercise of Self Defence

Armed attack. Article 51 contemplates self defence if an armed attack occurs against a Member of the United Nations. Armed attack is an attack against the territorial integrity or political independence of a state. Security Council Resolutions 1388 and 1373 which condemn the attacks of September 11 and call for action short of the use of force to be taken in response, refer to the right of 'self defence'. This presupposes that the events of September 11 constitute an 'armed attack' for the purposes of Article 51.

(i) State individual responsibility for the attack

Numerous writers assert that state involvement is necessary for self-defence to be justified and that other acts of individuals or groups must be imputed to the state so as to energe state responsibility. Others assume that a state itself must be involved in the armed attack. The question of whether a State is responsible for the armed attack is relevant to the lawfulness of a response towards that state.

An attack in self defence must be necessary and proportionate and commenced on a clear link between the target of 'defensive action' and the threat being defended against. Necessity and Proportionality

These must be certain of the threat of force or continuing attack. Any response must be necessary to avert that threat and proportionate. These factors, unlike the armed attack requirement, are perspective as opposed to retrospective, and are critical in distinguishing self defence from reprisal.

The necessity of force presupposes that all alternative, peaceful means have been exhausted, are lacking or would be ineffective as to meet the anticipated threat. A relevant question is whether the right to self defence is the effectiveness of any proposed measure. Proportionality requires that the force used be no more than necessary to meet the threat of an imminent second attack or a continuing attack.

Security Council takes over

A final requirement for self defence is that any measure must be immediately reported to the Security Council under Article 51 of the UN Charter. Although Security Council Resolutions 1388 and 1373 relate to the armed attacks against the US, for the purpose of any maintenance measures to the Council remains, following which the Council must then decide whether to execute the measure: it deems necessary for the maintenance of international peace and security.

(ii) Security Council

The legal distinction between self defence and reprisals, which are re- sponsible and largely punitive, is important. Reprisal action is considered not to justify the use of force under international law.

(iii) Security Council: Maintenance of International Peace and Security

Where self defence cannot be justified, the only legitimate use of force is that authorised by the Security Council. It has broad powers under Article 42 of the UN Charter to determine the existence of any threat to the peace, breach of the peace, or act of aggression and to take those measures it deems necessary for the maintenance of international peace and security.

Article 42 confers on the Security Council unique powers to mandate enforcement action. It confers the power to 'make recommendations or decide what measures shall be taken...to maintain or restore international peace and security.'

Non-forcible measures have included the establishment of ad hoc commissions of inquiry. One context in which the use of force has been mandated was use to secure the arrest of suspected criminals.

The Security Council may decide not to take the forcible action itself, but may nominate others to do so. Resolution 678 of 19 September 1990 during the Gulf conflict stated that: 'the Security Council authorises member states cooperating with the government of Kuwait to use all necessary means to uphold and implement Resolution 660.'

The language of Resolution 678 was intended to confer the use of force and contrasts with the language of the resolutions of September 11. Both Resolutions 1368 (2001) of 12 September 2001, and Resolution 1373 (2001) of 29 September 2001 situated the situation as a threat to international peace and security. While Resolution 1368 directed member states to take measures to cooperate to bring to justice those responsible, Resolution 1373 'decided' on sanctions, wide ranging measures that member states are obliged to take. It also went on to take other steps to prevent and suppress terrorist attacks. However its operative clauses stopped short of authorising the use of force or all necessary measures to be taken on the basis on previous occasions. The legitimacy of force therefore may ultimately depend on the Security Council subsequently agreeing to take, or to authorise, such force.

C. STATE RESPONSIBILITY

State responsibility is relevant to the use of force and to determining against whom force might lawfully be deployed. On one view, a state must be involved in an ongoing or imminent attack in order to justify the use of self defence against that state.

States can be responsible for international wrongs directly or vicariously. Where private individuals or groups are responsible, the question is whether the state exercises 'effective control' over their actions. Whether encouragement or even passive acquiescence in wrongs is sufficient to render a state responsible depends upon the ability of the state to prevent or control the wrong in question. The reaction of any entity for a state whose territory crimes are orchestrated has been long established.

D. THE JUSTICE PARADIGM: INTERNATIONAL CRIMINAL LAW

D. (i) Individual Responsibility

To the extent that the events of September 11 constitute crimes those responsible are susceptible to investigation and prosecution.

The work of the ad hoc international criminal tribunals for the former Yugoslavia and Rwanda ("ICTY" and "ICTR" or "the ad hoc tribunals"), the elaboration by consensus of the International Criminal Court ("ICC") Statute and innovations in criminal law and practice have been the principal contributions to the system of international justice.

D. (ii) Crimes against International and National Law

D. (ii) Crimes against Humanity

Crimes against humanity "consist of acts, such as murder, torture or inhuman acts, which form part of a widespread or systematic attack against the civilian population. Crimes against humanity are crimes under international law, prohibited by all persons irrespective of nationality or national law.

These are among the acts that may amount to crimes against humanity. Mubarak has been held in an international context to consist of 'killing with intent on the part of the accused to kill or inflict serious injury in reckless disregard of human life.'

D. (iii) War Crimes

As the name suggests, war crimes must take place in war or armed conflict. The ICTY definition of 'war crime' states: "...an armed conflict exists whenever there is a resort to armed force between
Responding to 11th September: the framework of international law

States or protected armed violence between governmental authorities and opposition armed groups within a State. International humanitarian law applies from the initiation of such armed conflicts.... If a state is responsible for the use of armed force on September 11, then that event may amount to the initiation of armed conflict between states. The Genoa Conventions, which consist of certain very serious crimes, are relevant in this regard. If state control is not established, the question arises whether there is an internal armed conflict... There is an accepted definition of 'terrorism'. This reflects in part the saying that one person's terrorism is another's freedom fighter, as well as the question of whether actors, such as states, can be responsible for terrorism. Applying the principles of legality and certainty in criminal matters, it is difficult to see how terrorism, being undeclared, could be used to constitute a crime under customary international law.... Certain acts of terrorism are defined through specific criminal offences in treaties that are binding on states party to them and which oblige particular states parties to exercise jurisdiction over the crimes covered... Certain states, whether as a crime against humanity or not, is a crime in most domestic jurisdictions and can be prosecuted in a domestic court as a common crime. As a crime of universal jurisdiction, all states should be able to exercise jurisdiction on the facts of the prosecution of individuals wherever there is no international resistance, as an international crime for the purposes of IHL... The concept of 'individual criminal responsibility' as a category of international crimes is different from the concept of 'criminal responsibility' as used in respect of the International Criminal Court. Crimes committed against humanity and war crimes. In addition, certain international agreements have provided for jurisdiction over certain crimes. Some states have universal jurisdiction laws in place, to ensure that they can exercise jurisdiction over these crimes. The duty to prosecute... Customary international law does not require a State to exercise jurisdiction over crimes committed against humanity and war crimes. In addition, certain international agreements have provided for jurisdiction over certain crimes. Some states have universal jurisdiction laws in place, to ensure that they can exercise jurisdiction over these crimes. The duty to prosecute... The principle of legality and non-interference with the internal affairs of other states, are two strands of the customary doctrine or jus cogens. No derogation, however, is permitted by the ECHR. The derogation clauses in treaties such as the European Convention on Human Rights ("ECHR") governs the conditions that states are bound to derogate from the treaty in times of "public emergency"....
by Adrian Berry

**Tough act follows**

In response to the attacks on New York and Washington on September 11th 2001, the Government has introduced the Anti-terrorism, Crime and Security Act 2001, the "Anti-terrorism Act 2001". As residents of Secure Lawyer and members of the Hallie Society will be aware, it is a long time since the Terrorism Act 2000 massively strengthened the power of the police and state authorities by giving them a range of powers and over and above those available under the ordinary criminal law. Following hard on the heels of that Act, the Anti-terrorism Act 2000 has been brought forward as another, advanced, set of powers to demonstrate the power of the government, the police and the intelligence services.

**Terrorist Criminal Justice**

The Act effectively replaces the full array of the Terrorism Act 2000 by further development of a two-tier criminal justice system that distinguishes between the civil liberties, powers and offences provided for under the ordinary criminal law and those that obtain under anti-terrorism legislation. This Act has been brought forward as another, advanced, set of powers to demonstrate the power of the government, the police and the intelligence services.

**Under the Act**

The Act introduces a number of provisions designed to enhance the powers of the police and the security services to deal with cases of suspected terrorism. These powers include the ability to intercept communications, search premises and intercept data. The Act also provides for the appointment of designated judges and magistrates to deal with cases of suspected terrorism.

**Defence**

The Act also introduces a number of provisions designed to enhance the powers of the police and the security services to deal with cases of suspected terrorism. These powers include the ability to intercept communications, search premises and intercept data. The Act also provides for the appointment of designated judges and magistrates to deal with cases of suspected terrorism.

**Conclusion**

In conclusion, the Anti-terrorism Act 2001 is a significant step forward in the fight against terrorism. It provides for a range of measures to enhance the powers of the police and the security services to deal with cases of suspected terrorism. The Act also provides for the appointment of designated judges and magistrates to deal with cases of suspected terrorism. Overall, the Act is a significant step forward in the fight against terrorism and will undoubtedly contribute to the prevention and detection of terrorist activity.
Terrorism' to be found in section 1 of the Terrorist Acts 2000 and applied in that Act and the Anti-terrorism, Crime and Security Act 2001, can cover a range of people who ordinary people would not consider to be terrorists. It can include foreign nationals who are engaged in lawful struggles of resistance against the occupation of their country and those who seek to overthrow an authoritarian regime that engenders gross violations of international humanitarian and human rights law.

Secondly, the 'National Security' is now very widely defined. A terrorist threat to a state which occupies someone else's country or a thrust to an authoritarian regime may now be deemed a threat to the national security of the United Kingdom because of the international 'terrorist' activities of those who might be considered to be engaging in Gross terrorist activity.

Finally, under the Anti-terrorism Act 2001 it is the Secretary of State's reasonable belief, and not the Secretary of State's actual knowledge, that is required for identification of terrorism. This is not difficult in these circumstances to envisage information from the security service or an authoritative person being used to justify the intervention in the UK of a person who is suspected of being engaged in gross terrorist activities abroad and who is considered to be a suspected international terrorist in consequence of such a situation. The UK Government would have moved from offering a foreign national a place of protection from an authoritarian regime, under the Refugee Con-

vention, to acting, in part, as that regime's agent.

There are many more provisions in the Anti-terrorism Act 2001 that make for depressing reading which ought to be opposed.

One trend in the law as it relates to terrorism operates to increase the coercive power of the state and the state has become apparent: that is the discrimination between foreign nationals and citizens of the United Kingdom. The gap is not only grossly insensitive in a heterogeneous society such as ours, unjustifiable in terms of need, and serves to undermine the rule of law, will it certainly not accord with rights and the principle of equality. Given the recent creation of the position of Deputy Secretary of State has reasonable grounds for so believing.

This provision makes it much easier for the government to construe the legislative provision for interfering international nationals is unsound and should be repealed.

Britain is a society where over 500,000 people live in the United Kingdom who have never lived anywhere else. The world has changed so much that such discriminatory practices could not be justified on any grounds either under existing British and civil or international laws or human rights standards.

The Gurkhas were the mountain-filrs of the Kingdom of Nepal who are well-known for their bravery, loyalty and honesty. They have served the British imperial interest for about 200 years and have won 13 Victoria Crosses as a result of their service in the British citizenship. The British Gurkha soldiers have always been portrayed as the vanguard of the British Armed Forces and they have proved in two horrific World Wars, the wars in East Asia, the Falklands and others.

Over a million Gurkhas have served the British Army. Out of which, 50 to 60 thousand soldiers have given their lives in the battlefields. There are still families who are waiting for information of the whereabouts of thousands of their loved ones. Several thousands of them were wounded and mutilated. There are over 100 former Nepalese soldiers of War (POW) who are still alive in Nepal. There are hundreds of Nepalese who have been made redundant and those who were sent back home with empty hands with no pension or gratuity the war were many. Some of them served as child soldiers for the British forces.

The Gurkhas, most of them coming from the ethnic and indigenous communities of Nepal, did not necessarily join the British Army out of their economic needs. In the past decades, Nepal was well-off economically. But it was the arrangement of the British-India Company and the then Rana regime of Nepal to enforce 'Indirect Rule' or British Imperial Policy. In recent decades, Nepali youths are attracted to join the British Army due to unemployment and the need to see the world. At the same time, their main dream is to guarantee a better life in lieu of Nepal or elsewhere after retirement.

The Gurkhas are neither slaves nor mercenaries. They are in fact part of the British Army under the same flag and oath to the Queen. They did not simply fight for the British to protect their country and homeland, but for their secured life. However, they have been mis-treated by the British government as servants, exploited as slaves and paid like mercenaries. They have been separated from their families for up to 15 years of compulsory service. There are about 25,000 Gurkha families in the UK, including education for children; compensation to war veterans, POWs and those made redundant; and residential visas, including citizenship as applicable and formally submitted them to the Tony Blair government in 1997. In the same year they were also able to have the Foreign and Commonwealth Human Rights Committee of Nepal Parliament hear their grievances, investigate the problems and make a series of international recommendations to the Government for the fulfillment of Gurkhas' just demands through diplomatic efforts.

Except this voice were still heard not in vain. Following this, Nepal and the Gurkhas took part in peaceful protests and demonstrations both in the UK and in Kathmandu. They have made their submissions before the UN human rights bodies and the International Labour Organisation (ILO). The UK government has also held international treaty obligations by the British Government. GAESO also held two international conferences of human rights activists and activities in 1999 and 2001 and adopted the Kathmandu declaration in 2001 giving an end to all forms of racial discrimination against the British Gurkhas and their famil-
**Gurkhas from the mountain-hills of the Kingdom of Nepal are well known warriors. They are praised for their bravery, honor, loyalty and faithfulness in the battlefields. They have served the British Army with distinction for about 200 years and have won 13 Victoria Crosses. This is the highest honour as equal to knighthood or elevation to the cabinet. The Gurkhas soldiers have always been portrayed as the top force of the British Armed Forces and they have proved it in two historic World Wars, the wars in East Asia, the Falklands and others. Over half a million Gurkhas have served the British Army. Out of which, 50 to 60 thousands soldiers have given their lives in the bloodbaths. There are still families who are waiting for information of the whereabouts of their beloved ones. Thousands of these soldiers while working in their country were wounded and mutilated. There are over 500 former Japanese Prisoners of War (POW) who are still alive as POWs. There are hundreds of widows. Over 11,000 were还真是 prisoners of war for many years. These people were born back home with lingering wounds with no pension or gratuity after the wars were over. Many of them have served as child soldiers for the British Empire.

The Gurkhas, most of them coming from the ethnically and linguistically complex Nepal, did not necessarily join the British Army out of economic needs. In the past decades, Nepal was well-off financially. It was the arrangement of the British-India Company and the then Rana regime of Nepal to force the Nepali youth to serve the British Empire. Accordingly, Nepal was not able to hold onto its land and its national businesses. The Foreign Affairs and Human Rights Committee of Nepali Parliament bear its grievances, investigate the problem and submitted its report to the Nepal Government. The Gurkhas just demand their rights.

Despite these voices were not heard so they started organizing peaceful protests and demonstrations both in the streets of Kathmandu and to the capital of India against Racism in South Africa. They also made their submissions before the UN human rights commission on behalf of the organisation for the violation of international law. It is the British Government. The government of Nepal made a compromise with the Gurkhas. As a result of this agreement, the Gurkhas were granted the status of British citizens and they were allowed to go to the UK to work, to serve in the Armed Forces of Nepal.
since 1967 Israel has been recognised as the international community, as well as in the United Nations, Palestinian territories of the West Bank and Gaza Strip. The international community of the occupied territories is not recognized by Israel. In 1967, Israel’s human rights abuses of Palestinian civilians, including economic oppression and denial of the right to work, are not being brought to account.

One focus for local non-governmental organizations (NGOs) is the occupied territories is to investigate possible war crimes and grave breaches of the Fourth Geneva Convention that have resulted from the actions of the Arab-Israeli military actions, unemployment in the occupied territories over the past two years has rocketed, now stands at 50 per cent. The percentage of Palestinians living in poverty increased from 32 per cent at the beginning of 2001 to 50 per cent today. Israeli checkpoints, roadblocks, closures, curfews and road infra-structure demolition have ensured that there is little freedom of movement of the population, for workers to move. The Israelis have divided the West Bank and Gaza Strip, with permits to travel for Palestinians between areas being very difficult to obtain, renewable each month and valid only until 7pm.

Under international human rights princi-ple these policies arguably amount to op-pression and harassment of the Palestinian population, especially when linked with the ex-ecuting illegal settlement of Palestinian terri-tories by Israel. The policy of Israel’s compulsory acquisition and settlement of land in the West Bank is a continuous breach of Art. 4 of the Fourth Geneva Convention. A recent report by the Israeli Human Rights Watch, has been filed that a total of 41.9 per cent of the West Bank is effectively controlled by the settlements. Numbers of Israeli settlers have increased by more than 100 per cent in the last two years.

Such activity arguably puts Israel in breach of the “right to self-determination”, due to the Universal Declaration of Human Rights, and the self-determination principles of the Interna-tional Covenant on Economic, Social and Cul-tural Rights. Further International Labour Organization conventions link the role of governmen-tal policies should also be a priority. The Commissi-on of Palestinian Trade Unions has extensive documentation of thousands of cases of non-payment of wages in the region, and is seeking help with legal action on behalf of Palestinian workers.

In a political context, the prevention of further human rights violations, including the activities of settlers, would be a key priority. In September 2002, the UN Security Council passed Resolution 1515, which demands an immediate end to all settlement activity in the occupied territories.

In the aftermath of the attacks of September 11th 2001 there has been a great deal of discussion on the interconnection of political life around the world. The narrative of events has moved from New York, through Ramallah, to Kabul and on again with such rapidity that the notion of distance between places and cultures has evaporated; reinforcing the fact that we share a common political space as part of a common humanity. As it becomes more apparent that an event or action in one part of the world has immediate and tangible consequence or reaction in another part, is a new word for works that contribute to a greater historical understanding of contemporary politics. Empire examines the processes of globalisation in its various forms. It seeks to account for the way that new forms of capital may not create forms of domination and oppression across the globe. More importantly, having examined the systems of power it draws the radical and optimistic conclusion that such policies can be overcome and the power of people or the ‘multitude’ can be realised. Harwit and Negri have produced a book that draws on Marxist theories of internationalisation for inspiration but builds a theoretical apparatus that explains political and social metabolism in a concept of sovereignty and power. For them traditional forms of empire, such as the British and French, have been replaced by more diffuse forms. In our contemporary world sovereignty rests in a variety of institutions such as the World Bank, the IMF, trans-national corporations, and the United States. There that is no centre point. The power that those institutions have ‘in common’ is how they are ‘self-reflexive’ and can exist without the need to be enforced. In other words, they are ‘self-regulating’. This is where the political power of this ‘empire’ is to be found. It is the very fact that the empire is self-regulating that makes it so powerful. The power of the ‘empire’ is the power to regulate itself.

In recent years, the relationship between the government in London and the government in Tel Aviv has become more tense. This is largely due to the policies of the previous government, which has been accused of being pro-Israeli and pro-American. The current government, however, has been more critical of Israel’s actions and has been more supportive of the Palestinian cause. This has led to a number of disputes between the two countries, including the issue of the West Bank and Gaza Strip. Despite these tensions, the relationship between the two countries remains important, and both sides have a vested interest in maintaining it. This is particularly true in the case of the Palestinian territories, which are at the center of the conflict. In recent years, there have been a number of attempts to resolve the conflict, including the Oslo Accords and the Oslo II Agreement. While these agreements have not led to a lasting peace, they have helped to reduce tensions between the two sides and have paved the way for further negotiations. The current government is committed to continuing the process of peace and has been working closely with the Palestinian Authority to find a solution to the conflict. In recent months, there have been a number of positive developments, including the signing of the Roadmap for Peace, which outlines a new strategy for resolving the conflict. While there is still much work to be done, the hope is that these efforts will lead to a lasting peace and a better future for both Israelis and Palestinians.
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