Socialist Lawyer

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Why we should oppose the war

Mike Mansfield

plus: Freedom for Palestine
Asylum Act injustice
Mental Health
A Charter for Workers Rights

Annual General Meeting
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DON'T ATTACK IRAQ

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To the War Coalition

Big Ben
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Editorial

The fire this time

A s this issue goes to press, Tony Blair edges closer to committing British troops to a US-led invasion of its neighbor, the oil-rich Iraq. This is a war that is certainly illegal, definitely immoral, and as is increasingly apparent, fraught with danger. At the same time, the unresolved Firesighters’ dispute has placed the spotlight firmly on industrial relations, more so than at any stage since the emergence of New Labour.

A few facts. The FBU ballot over pay saw 83 percent of papers returned. Of those, 86.7 percent voted to accept a programme of industrial action in support of a thoroughly researched and thought out claim. Anyone who has ever been involved with the complexities of a trade union ballot will recognise the incredible achievement of securing such an result.

Such a mandate, however, was not surprising. From 1981 to 1999 calls to the fire service rose by 78 percent in England and Wales, from 341,140 to 965,200 (source: HM Treasury’s Chief Inspector of Fire Services). Yet the number of full-time Firefighters were nevertheless reduced by 2.5 percent. Despite this, the 2000-2001 Audit Commission figures record that Government recommended times and targets for attendance times were met 96 percent of the time.

The earnings of qualified Firefighters have been linked to that of basic manual workers since 1978 (in the wake of the last national strike), but there is a wealth of evidence that renews the job as less sustainable. In the last year, the number of jobs lost in the country has risen by over 50 percent. Despite this, the FBU and the Firefighters Union have every reason to believe the public will support their strike.

The resultant strike and distortion by a disorganised Government was predictable. That a committed section of public sector workers, demoted as being ‘opposed to modernisation’, should have attracted such overwhelming public support during their 10 days of strike action was unanticipated. But the FBU’s arguments certainly hit a chord with many in the public sector and beyond, who are familiar with ‘targets’ and ‘downgrading’, redundancies and casualisation, and the unprecedented and serious attacks on their pension rights.

‘Modernisation’, with its implied closure of public services and the privatization of the National Health Service has been a hallmark of New Labour’s government. This is the time to take a stand against the government’s plans and fight for the rights of workers across the country.

Stop the war demonstration: Saturday 15th February, London. Haldane Society members meet outside Temple tube station at 12 noon.

Daniel Lawrence
Executive Committee: Adrian Berry, Claire Bostock, Bill Bowring, John Hobson, Lea Louise Christian, Katrin Hall, Martin Kenworthy, Neil Mclnnes, Steve Neale, Steven Shapin, Glenn Wedderburn

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

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The Immigration and Asylum Committee is interested to hear from people who would like to join or to participate in the work of the Committee. The Committee meets every two weeks. We campaign on Immigration and Asylum issues from a socialist perspective. If you are interested in the work of the Committee or would simply like to join our email list and find out more, please send an email to adrianbryan@mac.com

Public meeting

see inside back page
News

400,000 on the streets of London

HUNDREDS OF thousands of people took over central London on the last Saturday of September to march against war on Iraq. The site of the demonstration was standing, with many marchers still waiting to leave the Embankment while speakers were addressing demonstrators as they poured into Hyde Park.

Examiner wrote in The Observer, "Scotland Yard said at 2pm that perhaps 40,000 had turned up. The Stop the War Coalition claimed the total was more than 330,000. The police reluctantly moved up to 150,000, and the truth was, if anything, higher than either. It was a big, big, important march, and quite angry and quite mixed.

Muslim, trade unionists, students, peace campaigners and community groups carried home-made placards attacking Bush and Blair as war criminals, demanding justice for the Palesti-
nians, and declaring that a war on Iraq was really about oil. The speeches only ended when the police threatened to cut the power, but the marchers knew they had taken part in an historic event. Many, many more wish they could have been there too. It was a confident de-
claration to Tony Blair and George Bush that the anti-war movement is growing and is de-
termined to stop any war on Iraq.

Fantastic Florence

THE EUROPEAN Social Forum (ESF) in Florence, Italy, vastly exceeded even the most optimistic predictions. It did not just succeed — it was a political triumph. Around 60,000 people took part in the three days of meetings leading up to the anti-
war demonstration. People came from every continent, and from 105 countries. There were students and trade unionists, unemployed people and pensioners, activists and cam-
paigners.

The forum was sustained by 1,000 volunteer workers, and made possible by translating many meetings simultaneously into five languages. No wonder the thought of it terrified the right. The Italian state, headed by Silvio Berlusconi, tried to stop the forum. There were threats to ban it, and dire rumours about how vandals and anarchists were coming to burn Florence down.

All of this intimidation came to nothing. Berlusconi had to back off because of the groundswell of support for the forum and the trade union back-
ing for it. The vast majority of Florence's inhabitants enthusias-
tically welcomed the forum. On the Saturday's anti-war demo-
stration local people lined the roads to applaud the protesters, sang socialist songs with them, took up their chains, and hand
out food, wine and water.

The forum organised 30 rally-type meetings, 160 semi-
nars which were slightly smaller, and a further 180 workshops. On one morning you could go to big rallies — between 500 and 5,000 strong — on globalisation and the alternatives, food pro-
duction, "no justice, no peace", the emergence of the far right across Europe, in defence of people denied rights, or on how to take back control of the media and culture.

One meeting on the threat posed to us all by the General Agreement on Trade in Services (GATS) was so huge that it had to be held twice in the same venue — and then there were so many still wanting to hear it that it had to be held again. On Friday evening around 15,000 people were listening simultane-
ously to meetings.

Of course not everyone agreed about what was said or said the same things. There were differences over the relation be-
 tween the anti-capitalist move-
 ment and political parties. There were debates over whether lead-
ership is needed, and what lead-
 ership means. But there was an overarching sense of unity. And every day the general feeling grew more radical.

But the meetings were just one part of the forum. In a giant hall you could walk round two floors of stalls put together by hundreds of unions, political parties, campaigns and move-
ments. You could pick up a list of restaurants offering cheaper food to ESF delegates and be sure of a smile when you ar-
 rived wearing your ESF badge.

The forum was a daily rolling 12-hour protest meeting, a pop-
ular university, and a place to enter discussion and make friends.

It was an artistic space and somewhere to talk for hours about everything.

The first day was big, the second was almost twice as big. Tens of thousands of young people poured in. Whole classes in local schools were empty. Some colleges had to virtually close. The forum became a magnet for everyone who wants change. It was a focus for all those who are sickened by the war drive, who hate inequality and poverty, and who identify with the forum's slogan: "An-
other Europe is possible. An-
other world is possible".

The forum was a huge step forward for the movement that burst into view at the anti World Trade Organisation protests in Seattle at the end of 1999 and developed in Genoa in June 2001.

The pace and extent of the change is so great that perhaps after Florence we should talk of a new movement, a new Euro-
pean left which is offering a po-
 tential that has not existed for years. The forum met with the world in the shadow of war. It

offered a cry against all the hor-
rors of capitalism, but also pointed towards the battles that will be necessary to do away with those horrors.

One of the most inspiring meetings was a 1,500 strong forum on Eastern Europe. Andrej Grubacic from Bel-
grad in Yugoslavia set the tone for many contributions when he talked of the devastation caused by a decade of market capital-
ism. This had created so much bitterness that the danger was that people would look either to

Socialism or to fascism. He said there was an answer in "a return to the original socialist ideal" of a genuinely democratic, participa-
tory planning. There was a des-
erate need for an alternative, said Alexander Bezgalin from Russia.

But "the fact that there are so many of us here shows that an-
other world is possible." He spoke about the deep class di-
vides in his country and about a

new spirit of resistance — the "first small steps in the building of a movement".

September

28: 400,000 demonstrator in London against war on Iraq.

October

4: United Nations Committee on The Rights of The Child urges States to change the law which allows parents to smack their children. John Durnam, minister for young people, deems a 'mild smack' a perfectly "reasonable" response from parents.

6: Palestinian leader Yasser Arafat signs into law a bill banning, in the Occupied Territories, the Palestinian capital, sparking anger among Palestinians.

12: Unnamed not guilty verdict in 12 charges against Asian youth who dynamited their community in Bumby from racist attack.

29: Brazil: Workers party leader Luiz Inacio Lula da Silva, elected president.

November

24: Riot at Lincoln Prison, it took more than 550 prison and police officers eight hours to regain control during a riot in which three prison officers and 27 inmates were injured.

5: Court of Appeal rules a gay man has same rights as spouse or cohabitee to take over a tenancy. Three appeal court judges used the Human Rights Act to overturn House of Lords ruling.

6-10: European Social Forum in Florence, one million march against war and capitalism.

14: Health secretary, Alan Milburn, pledges controversial mental health bill would be reintroduced in the current session of parliament.
Victims the law left out

The government has launched plans for a ‘same-sex partnership register’ giving new rights to gay couples. Along with the register, Barbara Roche, minister for social exclusion, announced a raft of other rights which are currently only enjoyed by those who are married. Although there are of course many more months of consultation, it is hoped that the bill will be before parliament this Autumn.

Unfortunately, Lord Lester’s proposal for “civil partnerships” for all unmarried couples, both heterosexual and homosexual, has been dropped. Ministers were concerned that, while both Conservative and Liberal Democrats back greater protection for same-sex couples, the Tories would oppose extra rights for opposite-sex couples over “marrying to avoid divorce”.

The changes for same-sex couples will increase their rights to those traditionally held only by heterosexual married couples – namely property and inheritance rights, in the absence of a will, inheritance tax exemptions and the right to be considered the next of kin (allowing gay couples to register partner’s death, decide on funeral arrangements and be consulted on medical treatment if a partner is unconscious). People will also be able to apply to their partner’s hospital bed for their partner giving their life support, thereby giving them the right to make decisions in the case of a hospital panel.

Queen’s Speech main law and order points:

- Reforms of criminal justice system “at heart of government’s programme”
- Punitiveness for those acquitted of serious offences “where new and compelling evidence emerges”
- Crown and magistrate courts to be combined into one organisation
- Bills to tackle anti-social behaviour, to reform laws on sexual offences and improve international cooperation in tackling crime
- Abolition of fixed-term opening hours for premises selling alcohol

played or members of the public affected by corporate greed and those responsible corporate officers are deemed to be the chairman, managing director and chief executive or secretary.

John Prescott weighed in behind these measures. “The law must come down hard on those who persistently put people in danger. Health and safety is a priority issue for those at the top of all organisations and they must be prepared to face the consequences of ignoring it in the future; that could well mean prison.”

No sooner said than dropped. The fate of the corporate manslaughter bill is shrugged in mystery. There has been a resounding silence punctuated by the occasional whisper that all would be remedied in a health and safety bill. Such a bill is forecast in the Queen’s speech. It will establish an independent railway accident investigation branch in line with Lord Cullen’s recommendations. Yet the bill makes no mention of corporate manslaughter.

Even in America, big business is threatened by prison sentences and punitive damages and, ultimately, offending companies can be closed down. Here in the UK, however, there can only be one message. New Labour’s enduring affair with big business cannot be jeopardised by the threat of criminal sanctions.

Michael Mansfield
First published in The Guardian

Law and Justice firefighters on the march in November

Gay and lesbian couples register for gays

The first registration events took place at the greater London Authority’s Islington headquarters in Victoria Street September. A year on, 34 gay partnerships have been registered. Barbara Roche said there was an “extremely strong case” for allowing same-sex couples the chance to register their relationships. A spokeswoman said “Gay couples don’t have the option of marriage. The lack of legal status causes serious problems for gay couples.”

Colin Hart, director of the Christian Institute, said the registration plan did squander gay relationships with marriage, whatever ministers said “If the special benefits of marriage are given to those in homosexual relationships, then marriage becomes devalued.”

However, although the proposal is a step in the right direction and the spirit of it is clear, the detail will prove a battle. What arrangements, for example, will be in place for settlement of disputes if partners separate? What pension rights will same-sex couples have during life? The move is unlikely to satisfy all gay rights campaigners either. Some campaigners argue that the law should go further and allow gay couples to marry. A recent poll by a gay website – Gay.com – showed that over 57 percent of the 10,000 lesbian women and gay men across the UK wanted marriage.

December

November

13: Queen’s Speech: Double jeopardy rule scrapped.

19: Government paper published outlining plans for same-sex ‘partnerships’ that would have lived workers from the first day of employment. The Government plans to amend the directive.


23: Government promises to repeal or amend 97 laws and measures further 200 that ban the publication of information held by Whitehall. Info released could include safety reports on rail crushed such as Potter Bar and Ladbroke Grove.

24: David Blunkett to change the law to hand over to judges his power to set minimum jail terms for convicted murderers, after seven law lords ruled that the death penalty’s role breached the European convention on human rights.

26: Law lords unanimously rule that politicians should play no role in establishing the length of sentences individual offenders should serve.

30: Government ousted plans to replace ‘Exceptional Leave to Remain’ status with more tightly drawn category called ‘humanitarian protection’. They expect it will cut around 12,000 from those allowed to stay.

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It’s a scary thought to think that by the end of the decade the prison population in the UK could reach 110,000. Statistics obtained from the Home Office currently places the figure at 72,500, a rise of 30,500 since 1990.

It seems that the lord chief justice Lord Woolf’s call for a more cautious approach to prison sentences has not dampened the courts’ ‘live affair’ with custody. Lord Woolf has repeatedly asked the courts to use jail only as a last resort for dangerous, violent and sex offenders and recently stated that jail overcrowding is a ‘cancer’ eating at the ability of the prison service to achieve its objective of protecting the public from crime.

Unfortunately his request has failed to stem the rise. In December 2002, prison officers and probation officers warned that a new jail building programme – with up to 40 extra prisons – would be needed to house the extra inmates. This growth is stark: parallel with that of the USA.

Over the last 30 years, the number of prisoners has surged in every state in the country. While the nation’s population has grown by only 20 percent, the number of Americans held in local, state, and federal lockups has doubled – then doubled again. The United States now locks up some two million people. That’s far more than ever before, and more than any other country on earth, and the number is still growing.

How did this happen? Some would argue that the answer has little to do with crime, but much to do with the perception of crime, and how that perception has been manipulated for political gain and financial profit. Courts to politicians have increasingly turned to tough-on-crime policies as guaranteed vote-getters. That trend has been encouraged by the media, which use the public’s fearful fascination with crime to boost ratings, and by other businesses whose profit depends on mass-scale incarceration.

Speaking to judges and lawyers at Manchester town hall, Lord Woolf said the judiciary had to accept some of the blame. But there has been a continuous upward pressure on sentences from public opinion, the media and the government.

Lord Woolf further stated that the punitive approach had been tried and had failed. A wider range of community penalties would enable courts to give offenders incentives to take part in drug rehabilitation, restorative justice and other programs that are less crowded than the nation’s prisons.

"It is a matter of national shame that we routinely lock up those in need of care or treatment and then release them from our overcrowded jails more, not less, likely to offend!" Juliet Lyons, Prison Reform Trust

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**Numbers: just keep rising**

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**CND’s legal battle ‘a first’**

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The Campaign for Nuclear Disarmament failed in December in its bid for a high court declaration that it would be against international law for the UK to wage war against Iraq without a fresh United Nations resolution. Three judges ruled the court had no power to declare true interpretation of UN security council resolution 1441 which set out Saddam Hussein’s disarmament obligations. CND had argued resolution 1441 did not authorise the use of force in the event of a breach of its conditions.

The application, made on CND’s behalf by Rabinder Singh QC, a colleague of Cherie Booth at Matrix chambers, was against the prime minister, the foreign secretary, Jack Straw, and the defence secretary, Geoff Hoon.

Mr Singh argued that there was a "general principle of international law" prohibiting force unless it was in self-defence or specifically authorised by the security council. Neither of those exceptions to the principle applied. Yet Mr Straw and Mr Hoon had both made statements which suggested that Britain would act without a new UN mandate.

It was the first time that a UK government had faced such a legal challenge over the possibility of a declaration of war. CND argued there was great interest in ensuring that the government had judicial guidance on what the law actually was, so that it did not embark on military action based on a mistaken belief that it was lawful to do so when it was not.

But the judge held that the court had no jurisdiction to intervene in a UN resolution that had never been incorporated into domestic law. In any event, he said, the court would decline to embark on the determination of an issue if to do so would be damaging to the public interest in the field of international relations, national security or defence. CND’s claim was therefore “non-justiciable”.

The judges refused CND permission to appeal, although it can still seek permission from the court of appeal.

CND had earlier made legal history when judges agreed to cap its bill for legal costs if it lost the high court case. They held that the exceptional nature of the case justified making an order that if CND lost, it would not have to pay more than £25,000 towards the government’s costs. The ruling was a blow to the government and CND’s solicitor, Phil Shiner, said: “This is the first time over that a court in this country has made an order of this nature. CND is a relatively small organisation and, in a case of such public importance, it was crucial that it should proceed without having to pay out of pocket. The judge was right to support individual public campaigning activities at risk through having to meet a huge costs order.”
Damilola report is just a whitewash

A landmark decision in the High Court means juvenile prisoners are no longer entitled to the same legal safeguards as every other child in the UK.

In judicia review proceedings, the Howard League for Penal Reform argued that Prison Service regulations which exclude child prisoners from Children Act 1989 welfare protection are unlawful.

Ruling in the case, Mr Justice Munby said the League's evidence pointed to the "degrading, offensive and totally unacceptable treatment" of juvenile prisoners. He said "prison conditions for UK children ought to "shock the conscience of every citizen".

As a result of the Court's decision, prison reform campaigners are hopeful that jail conditions for more than 2,500 juvenile prisoners in the UK will significantly improve.

Bringing proceedings against the Home Office, Frances Cock, Director of the Howard League, said juvenile prisoners are at risk of serious harm under a prison regime which leads directly to widespread incidents of violent assault, self-harm and suicide among young prisoners.

The Mirror ran an edition which rightly concluded: "Once the evidence was looked into, it should have been clear there was not enough to secure a conviction. Instead, the police contiued to do everything they could to create a case against them". The Damilola report has done nothing to address this.

The family was another police investigation that tried to bring a prosecution at any cost.

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January

1. Cabinet papers released under 30-year rule. "Playground Marauders" report by MI5 in 1972, reports The Daily Telegraph, "after concerns that school Overnighters could take to the streets as French students in 1989 italy to workers for decades."

February

31. Foreign Office minister Mike O'Brien stated that the British government would prefer if the England cricket team did not go to play a World Cup game in Zimbabwe, though it wouldn't instruct them not to do so.

March

17. Liberty is concerned how the media is covering the arrests of terrorist suspects, accused of ministry of inflationary coverage for political reasons and said those arrested during raids in London and Manchester must receive a fair trial.
Mike Mansfield spoke at the first of a new series of Haldane public meetings last October. Society Secretary Rebekah Wilson reports

Why socialist lawyers should oppose the war

The reasons ‘Why Socialist Lawyers Should Oppose The War’ may seem fairly obvious to most but the meeting provided an informative and exciting opportunity to discuss the issues posed by the war against Iraq. Catrin Lewis (chair of the society) chaired the meeting held at the London School of Economics at which Michael Mansfield QC was the guest speaker in this series of public meetings. The Society is now organising in order to provide a forum for discussion and action. Michael Mansfield began by praising the recent edition of Socialist Lawyer, which he commented put the arguments against the war so cogently. He impressed upon the meeting the article by Helen Duffy of Lesbian Rights who set out the legality of the war. He went on to address the meeting with his reasons as to why socialist lawyers should oppose the war. He also highlighted the hypocritical approach of the handling of North Korea.

Socialist lawyers have a responsibility to ensure that the legal agenda is debated and followed. What can I do? poses the first question. As a socialist lawyer you must be able to address the arguments made in favour of the war and keep on bringing those arguments back to a legal forum at the same time as creating a coalition of people across all boundaries who are opposed to the war. At present the real problems are not being thought through. There is either a hawkish or liberal approach. The reasons for war are not being properly addressed. September 11th is a key factor. The ambience of standing shoulder to shoulder without being anti-American has been in the vanguard of all events ever since. Tony Blair is regarded not just as an ally but a personal spokesman for the unable Bush who had previously thought the Taliban were a rock group and Al Qaeda a baseball team.

We should listen to those who are qualified to talk about the situation. For example, Scott Ritter a US national, republican, a veteran of the Gulf war, a member and a UN weapons inspector in Iraq for seven years. He does not regard Iraq as having any current capability to have those weapons of mass destruction. Even if they do, does this entitle a pre-emptive strike?—no it does not. In 1996 a number of Non Governmental Organisations clubbed together to bring a case at the International court at the Hague. They challenged the legality of nuclear weapons. That court held that it could not outlaw the possession of nuclear weapons. It is totally legal then for a state to have them. The US approach is riddled with hypocrisy, if not, then why not invade China or North Korea?

We turn then to chemical and biological weapons and the numerous countries that have refused to ratify the convention on the use and manufacture of chemical weapons. A number of countries who did eventually sign, including the US, were not prepared to allow inspections of their production. Last autumn in wake of September 11th, we had the anthrax scare, and there was an immediate assumption was that it was Al Qaeda. It then transpired that in fact the anthrax was probably US developed and it’s now alleged that it was sent by an American professor who was concerned about the development of chemical weapons in the US going unchecked.

If we need a yardstick we can’t ignore the eighty five UN resolutions that Israel are in breach of. Resolutions encompassing land, water and refugees. If there is any threat in the middle east, it is Israel. They are number six in the nuclear club and we can only guess at the number of warheads they have. They have refused to sign any treaty regarding their weaponry. They also have centres developing chemical and biological weapons. We have no information, no inspectors. If we apply the arguments for war on Iraq to Israel then the UN would have to go in to Israel.

This hypocritical approach shows that the reasons being used to argue for war do not hold water. What about the reason our forward to ‘re- invoice democracy’. How will that work after the place has ben bombed to pieces? We know what happened at the end of the Gulf war. George Bush senior encouraged the opposition in Iraq to rise up. They did. The US then lifted the no fly zone. Saddam could then quash the uprising. US troops to the ground did nothing. The US are not interested in democracy. We only have to look at the particularly corrupt nations they’ve supported in the past, including of course Saddam’s regime.

The real reason for war, only a few have been able to articulate it, oil. The USA has a problem. They have troops in over 140 countries. They need oil for their military machine and global corporation. Money from oil currently goes to banks dominated by the security council. They want control of oil and its price.

What should we be doing? The International Criminal Court is not just a gesture but an important institution. At the moment over eighty one countries have ratified it. The US were amongst the last to sign up. The US continue to seek exemptions from any enforcement against them persuading less economically stable countries to back them. If the US is going to ask this country to back a war Blair should say there are certain pre conditions. This is what we should be scrutinising, a country’s willingness to sign up to an international rule of law.

Lawyers need to bring the debate back to what makes sense, the ICC. We have the opportunity to be part of a new world order where any country can be held to account. People want accountability for mass killings. Including the Kurdish people gassed. There must be a legal edifice to which we are all accountable.

The mindset that we need to use force to deal with force needs to be moved away from. We must ensure that opposition is always on the agenda.

The meeting concluded with a number of contributions from the floor. There was a general view that people feel the need to do something and that the society should help co ordinate opposition in numerous ways including a letter writing campaign. It is clear that opposition to the war is strong and socialist lawyers must do what they can to ensure that their voices and the legal arguments are heard.
In the name of the Law?

John Strawson, Principle Lecturer in Law at the University of East London, spoke to the Society on ‘US Hegemony after 9/11’

When I was asked to talk about hegemony, I was wondering whether you meant Mao or Gramsci’s concept of hegemony. The last time I gave a talk was at Birzeit University, Ramallah. There have been some very interesting developments in our understanding of our legal system. The bonds of restraint are not as secure as we thought they were. There is a new kind of self-defence, which has existed since 1945. 9/11 broke the bonds. Civilian became weapons as well as targets. The response in Afghanistan also broke the bonds of restraint. The questions raised in relation to Afghani relations to the laws of war, the four Geneva conventions and Guantanamo Bay. As has been noted by others the future of international law can be seen in the West Bank. There, over the last two years, the government of Israel has been less and less bound by restraint in respect of the use of torture, targeted killings, and the use of live bullets and crowd control situations. The Palestinian resistance has also shown a lack of restraint in challenging norms. One side’s pointless action has been met by the actions of death. The effects on law would have been detectable until recently. There has been a development of an international hegemonic law in which the United States holds a particular position. This challenges conventional international law and has had a wrecking effect on international law. The US has become increasingly attracted to unilateralism. It has wrecked international legal instruments such as International Criminal Court. It has justified this as a normal exercise of state sovereignty. However it has used a series of bilateral treaties to go far beyond. That under the Rome Treaty governing the International Criminal Court that the US is using. The UN has put pressure on states such as the EU Accession States to join the new international. The US has the power to make the campaign here is what to allow us to take place. If you look around today there are more statesmen and women on trial accused of war crimes than in any time in history. They only have to look at the International Criminal Tribunals for Yugoslavia and Rwanda as well as the International War Crimes Convention. The US wants to wreck that. It has not signed the Landmines Convention and the

Convention on the Elimination of All Forms of Racial Discrimination and Women. On occasion the US finds itself on the same side as that against the US peace and security and not just the US peace and security. The US is trying to promote regime change in Cuba, in remove Castro, and to force low market economy on the country. The legislation creates a universal jurisdiction in the UN Courts which can be directed against individuals and their families. It is these sorts of things that mean that you have to be wary of the US legal view of the place in the world. The Afghan War was supposed to root out Al-Qaeda. However where is the state of Al-Qaeda? It is 5000 men, plenty of money and camps. United Nations Security Council Resolutions 1268 and 1275 against terrorism with armed attack as defined in the UN Charter. The test for self-defence is that the state was attacked by other state. The US has the power to make the campaign inside is the US to allow this to take place. If you look around today there are more statesmen and women on trial accused of war crimes than in any time in history. They only have to look at the International Criminal Tribunals for Yugoslavia and Rwanda as well as the International War Crimes Convention. The US wants to wreck that. It has not signed the Landmines Convention and the

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What future for Palestine?

by Claire Bostock

On behalf of the Haldane Society of Socialist Lawyers, I attended a conference organised by the Palestine Solidarity Campaign in London on 35th November last year entitled "What Future for Palestine? International Conference on Sanctions and Divestment." The audience was broad, perhaps a reflection of the fact that a wide group of people support the Palestinian struggle against occupation. Through intelligent, informative and interesting lectures, panel discussions, the comments of the Chair, the reading of poetry (of which we shall return), and audience participation, the case for the Palestinian people was put in the strongest possible terms. This article summarises how that case was put.

The South African comparison
Ronnie Kasrils gave the first lecture. Dr. Bau, the conference chair, Mr. Kasrils is the minister of water and forestry in South Africa. He was a member of the ANC when he was in detention. His theatrical presentation of the anti-apartheid campaign in South Africa was, I was told, spellbinding. Kasrils began by condemning the notion that any Israeli critic is automatically anti-Semitic, which he fiercely denied. He declared, "what we went through in South Africa is a picnic in comparison to what the Palestinian people are now suffering.

Mr. Kasrils identified similarities between the inhumane treatment of black South Africans under the apartheid system and the Palestinians perpetrated by the Israeli state. His references included land dispossession, democracy and oppression. With reference to land dispossession, Mr. Kasrils indicated that through "the barrel of a gun and other devices means 87 percent of land in South Africa during apartheid came under the control of the whites." A similar posture can be found in "Biblical Palestine where 78 percent of the land is under the control of the Israelis and in the West Bank where 22 percent of the land is occupied." As regards democracy, he made his point by reminding us that in apartheid South Africa, it was the Afrikaners who had the vote, not the Africans; in Israel, it is the Israelis and not the Palestinians. Concerning the respective oppression of two peoples, he spoke of the sieges and curfews imposed upon the Palestinians by the Israeli Government which last "for months on end," and noted "even in South Africa, we never had curfews, sieges and round ups in the townships. Our sieges and curfews lasted for 24 hours.

Mr. Kasrils suggested that the international community is further behind in expressing outrage and taking action against Israel than it was against the apartheid government in South Africa. This feature of the International community's inadequate response to Israel has been further emphasised in an article he co-wrote with the conference chair, Victoria Béantin, entitled 'No room for justice,' published in The Guardian on 21st December last year. Mr. Kasrils ended his lecture by imploring the audience, the world and the Palestinian people to draw inspiration from the South African experience and continue the struggle for freedom in Palestine. His closing words were: "I am convinced that Palestine will be free."

A view from Ramallah
Dr. Mustafa Barghouti, Secretary General of the Palestine National Initiative and head of the Health, Development and Information Institute, Ramallah, gave the second lecture at the conference. A resident of Ramallah, Dr. Barghouti focused upon everyday life in the occupied territories.

Dr. Barghouti began by referring to a lack of knowledge by the world community of events "on the ground" in Palestine. He appeared to suggest two reasons for this. First, he blamed an international effort by "Israel and the West to black out what is happening on the ground." Secondly, he blamed "official incompetence in Palestine" in failing to explain "the facts" to the world.

Dr. Barghouti then gave these facts to the audience. He told us that 2038 Palestinians have been killed (19 percent of whom were children and 85 percent civilians) since the start of the second Intifada, which has become widely known as the Al-Aqsa Intifada, commencing on 28th September 2000. We were informed that, during the same period, 42,000 Palestinian people have been injured, 383 of whom were children. Dr. Barghouti stated that in Palestine, where there is a population of 3.3 million people, approximately three Palestinians are killed each day. Dr. Barghouti stated that this figure would be the equivalent to 36 people per day in the UK, 263 people in US and 1,219 in China.

Dr. Barghouti then referred to "four processes" instigated by the Israeli state: "full occupation, siege and curfews, forcible settlement expansion and the construction of a new apartheid." In that context, he talked about "a strategy" on the part of the Israeli State to "destroy the Palestinian State and its people.

Dr. Barghouti developed this theme by referring to the Israeli checkpoints and how they have effectively partitioned the land and caused the death of at least 77 Palestinians who died as a result of not being able to pass through the checkpoints in order to gain access to health care. He noted that 24-hour curfews have been in place for over 160 days and that these checkpoints have effectively partitioned the land and caused the death of at least 77 Palestinians who died as a result of not being able to pass through the checkpoints in order to gain access to health care. He noted that 24-hour curfews have been in place for over 160 days and that the severity of checkpoints in Palestine combined with the destruction of the health care and education systems were all having an obvious effect on the Palestinian people. Dr. Barghouti told us that in Palestine, 11 schools have been completely destroyed by the Israeli army. He went on to state that 1,700 Palestinians are held in "administrative detention," that is to say, without arrest or charge, and that some of the detainees have been held for over three years. He also observed that Israel controlled the water and electricity supplies to Palestine and that both of these are extremely scarce resources in Palestine.

Dr. Barghouti referred to, keeping to his theme of the destruction of the Palestinian people, a "policy" of assassination and he explained that 160 Palestinians have been assassinated since the second Intifada by the Israeli army. Israeli, he claimed, is "our jury, judge and executioner."

Dr. Barghouti then referred to, "the construction of a new apartheid, the building of the wall." The wall, which has recently been widely reported in the western media, is to be between 12 and 20 metres high, 30 to 100 metres wide and 350 kilometres in length. The wall is not being built on the borders but inside the West Bank. Dr. Barghouti described the effect of the wall by saying: "it is enclosing towns, villages and cities; it is denying people freedom of movement;"
ministration’s widely acknowledged pro-Israel approach to the Israeli-Palestinian conflict. Dr Murray also examined events in America as regards Palestinian rights.

Dr Murray, although recognising that the US’s pro-Israel approach pre-dates 9/11, began by setting in context the post 9/11 renewed pro-Israel approach to the conflict. The media has in fact widely reported this. She outlined how and why 9/11 re-shouldered the US Government’s open support of Sharon. Dr Murray explained that the response to the ter-
rorist attacks in the US could be viewed as an immediate and “vapid consolidation of a military state.” The “very hostile climate” had led Bush to take the view that “Christians and Jews, are fighting ‘Muslim terrorism’ together.” Sharon, Dr Murray stated, had provided the blueprint of how to re-
spond to terrorism; Bush was following that blueprint.

Dr Murray assessed that in foreign policy terms, the US and Israel have become “one country.” She explained that this concept, that is to say a single approach to terrorism or terrorist-orchestrated by Sharon and Bush, has overtaken America, the consequence being a shift in the spectrum of entire discourse to the right. She then identified that the lack of proper media analysis and scrutiny has compounded the problem fueling a lack of understanding of the 2003 American people as well as a lack of understanding of the Palesti-

nian cause. In previous work, Dr Murray has also attributed the American pro-Israel policy to the ineffec-
tiveness of the PLO in telling the Palestinian story and failing to activate empathy for the Palestinian cause. Her work has also critiqued a weak international solidarity movement as contributing to the US’s ability to pursue its unilateral policy of support for Israel.

Notwithstanding the general hegemony of the US’s sup-
port of Israel, Dr Murray informed us that there is a vocal minority in the US who have engaged it by the use, for example, of internet campaigns, diverse public campaigns, public meeting as well as robust pro-Palestinian demonstrations. Dr Murray spoke up against sanctions and boycotts against Israel. Dr Murray referred to the “new energy” of the grassroots’ immigration and human rights activists. In America, we were told, however, that much was happening to stop the “dis-
sent” and we were reminded of the hardball tactics used such as the criminalisation of protesters labelled in the US as “do-

democratic terrorists.”

Dr Murray did not directly refer to the anti-apartheid movement or the American Civil Rights Movement but her call for “Palestinian solidarity” seemed to be inspired by both. Her concluding remarks focused on the need to con-
tribute to the struggle for freedom in Palestine.

An historical perspective and panel discussions

Dr Naaser Ariari, a Palestinian writer and campaigner, pro-
vided the fourth and final lecture. In 10 minutes, sadly not enough time for such a significant and complex topic, Dr Ariari gave a history of the region and summarised the evo-
dution of US-Israel relations.

The panel discussion then followed. Each panelist spoke about his or her experiences as well as his or her views of the Israeli-Palestinian conflict. The Palestine Solidarity Cama-
paign, UNISON, and USIP rounded off the panel. They were joined in the discussion by Professors Paul and Elliott, who focused on the role of faith and religion in the conflict.

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Andrew Katzen examines the measures that will remove trial by jury despite widespread unease over consequences

The jury’s court

typical jury]. This presumably is the articulation in statute of the twin objections referred to above. It is something of a paradox that it will be a juries that produce the probable effect that a case will have on an ordinary person. Will this just come down to an arbitrary rule that needs that any trial predicted to last, for instance, for three months or more, or continuing papers in excess of, say 10,000 pages “satisfies” these tests?

Additionally it will have to be shown that the complexity and/or length is attributable to issues of “a financial or commercial nature or which relate to property”. Potentially this type of evidence could be found in not just the prosecutions of the Guiness defendants but a wide range of less high profile cases such as benefit and credit card fraud. It is impossible to predict what the scope of this will be.

b) Jury Tampering (c.38)

In the white paper it was stated that “a number of trials” are stopped each year due to this problem. We were not told the precise total and an educated guess would be that the figure is not a large one. This is not to trivialise the issue but if there was tangible evidence of an increase in jury tampering then presumably this would have been reflected in a greater number of prosecutions for the offence of introduction of a press. In truth, jury protection measures only arise in a tiny minority of cases and does not appear to be any widely held criticism of their effectiveness. However the real danger here will be the secret application to remove a jury made on the basis of public interest immunity. Uncorroborated police officers may believe that they have a better chance of securing a conviction with a judge alone dealing with the case and may be tempted to forego the assurance provided by jury to guard against spurious objections to a jury trial.

The information will be dealt with in the absence of the defence and it will be almost impossible to challenge it effectively. Furthermore it may well be the same judge who tries the case after having decided that an attempt was made to suborn a jury than leaving many to wonder if justice could be seen to be done in those circumstances.

When considering this the judge will again have to grapple with the concept of an excessive burden upon the life of a typical person. The same is true here in the context of police protection.

c) Defence application for trial by judge alone (c.36)

This is perhaps a clever move by the government designed to defuse some of the concern regarding the abolition of jury trial already suggested. Whilst possibly could be wrong with the idea of extending to a defendant the chance of asking for a trial by judge alone? Well there are good reasons to be suspicious of this proposal. Let us remember that the obvious analogy is with a right that the government have apparently very keen to get rid of, the right to elect jury trial. Twice they tried and failed to remove this. It is difficult to accept that the government have suddenly had a change of heart and that is the choice of trial being exercised by a defendant. The concern is that it gives an opportunity in the future for it to be said that the changes have worked well, judge alone trials are quicker and cheaper and so the decision should instead be taken by the government.

In practice there is a risk that this measure will introduce a two tier system and one that is grossly unfair. Optimising for a trial by judge alone is only likely to arise for defendants facing charges considered to attract bad publicity (such as child abuse) or whose only hope is to be an acquittal on a point of law. If so, it may come to be seen as a cynical tactical manoeuvre by those who are afraid of trial by jury. Serious questions have been raised about the nature and extent of pre trial reporting prejudicing the opportunity for a fair to take place. The answer is surely to deal effectively with problems not exclude the public's participation in the trial process.

If such an application is made the judge must decide to it unless one of the designated exceptions apply. If there is more than one defendant all will have to agree to trial by judge alone. If any defendant holds back the whole office in the justice system or the trial raises issues as to whether the system has been brought in to its desire then the application will be refused. This is designed to make sure that the trial of the defendant will proceed.

Andrcw Katzen, 'Justice for All', examines the measures that will remove trial by jury despite widespread unease over consequences.

The jury’s court

The Criminal Justice Bill is a major piece of proposed legislation that will have huge effects on the arrest, detention, bail, trial and sentence of those suspected, accused and convicted of crime. The rationale is to be found in the white paper 'Justice for All'. Using the well worn image of the scales of justice it is claimed that the changes are needed "to rebalance the justice system in favour of victims, witnesses and communities". In so doing it seems that the government believe that this should be done by letting them fall against defendants and their interests.

The proposals have to be seen in the context of previous unsuccessful attempts by this administration to curtail jury trial. In spite of comments made by the government to the contrary, there is clearly some hostility shown towards the concept of a trial system in which ordinary members of the public play a key role. A concern must be that these proposals could be the first step towards the wholesale abolition of trial by jury on grounds of "modernisation". This is despite the absence of any research demonstrating public enthusiasm for abolition or even reduction of trial by jury. Indeed a recent survey shows that over 80 per cent think juries to come to the right decisions, believe that a fairer trial results from a trial by a jury than a judge alone and say that the quality of the system is better when it includes juries as often as possible (see Views On Trial By Jury: The British Public Takes The Stand, January 2002, research conducted by SWR Worldwide commissioned by The Bar Council, The Law Society and The Criminal Bar Association).

On the application of the provisions at a preliminary hearing, trial without a jury could be ordered by a judge in complex or lengthy cases involving financial evidence and in cases in which there is a real and present danger of jury tampering. The defence will also be able to apply for a trial by a judge alone whatever the change feared.

a) Complex Or Lengthy Cases (c.37)

In the white paper the government's justification for the abolition of trial by jury in these cases was twofold. The first reason advanced was that a small number of serious and complex fraud trials placed a huge strain and time commitment on potential jurors thus making it not possible to find a representative sample. Granted that there may be difficulties getting people from all walks of life to sit on a jury for several months. In fact this is recognized in the bill by reducing exemptions from jury service so that more will serve. Yet the solution is one that shows that makes it hard to accept that this is a genuine concern. It is to have just one person trying the case, a judge, who many might think is the last person likely to reflect the values of ordinary members of society. The second argument put forward was that "the full criminality of such a fraud is not always exposed" due to the complexity of the evidence and the judge's perceived unfamiliarity with it. This, in polite language, seems to mean that prosecutors hold back from showing the whole picture in the fear that jury members are too limited to be able to cope. No evidence has been revealed to back this up. Further it is said on cases of a double standard between easy to prosecute "blue collar" crime and difficult to prosecute "white collar" crime. From this should it be inferred that the belief is that juries are really too stupid to understand these cases and uniquely acquit too many guilty fraudsters. It is understood that over the last three years the Serious Fraud Office's conviction rate runs at an impressive 86 per cent, a figure which does not support this position.

The government suggested that the reforms would usually affect 15 to 20 serious and complex 'Maxwell-style' fraud trials. It will be interesting to see, in practice, how many successful applications are made particularly given that the proposed legislation does not just relate to those types of cases. In rolling on this issue it will have to be decided if the complexity and/or length is either likely to be "so burdensome" to a jury that it is in the interests of justice to dispense with it or likely to "place an excessive burden upon the life of a
United for a Charter of Workers’ Rights

John Hendy QC, Chairman of the Institute of Employment Rights – an independent charity specialising in employment law – and its Director, Carolyn Jones, outline the main points of ‘A Charter of Workers’ Rights’

The UK Government is currently reviewing its trade union and employment legislation, most particularly the effectiveness of its Employment Relations Act 1999. At the same time, the Lord Chancellor’s Department is undertaking an audit of UK laws to assess to what extent they comply with UK obligations under the Rome Convention for the Protection of Human Rights and Fundamental Principles.

In an effort to inform these reviews, we have produced a Charter of Workers’ Rights for the consideration of the labour movement. It is hoped that the policy ideas contained in the report will inform the current reviews and go some way to bringing UK legislation back in line with international standards.

Meeting international standards

A Charter of Workers’ Rights should not be controversial – at least amongst workers, trade unionists and those who have studied international labour law. The Charter will be founded on fundamental values. These values are not plucked out of the air, rather they are derived from well established and numerous international labour laws which have been ratified by the UK.

The international instruments (as the lawyers refer to them) which contain labour values and purposes which underpin them include: the United Nations Charter and the UN Declaration of Human Rights 1948; the International Covenant on Economic, Social and Cultural Rights, 1966; the European Social Charter of 1961 (revised 1996); the EU Charter on the Social Rights of Workers of 1989; the EU Charter of Fundamental Human Rights of 2000. They are found in the Conventions and Recommendations of the International Labour Organisation and its Declaration of Fundamental Principles and Rights at Work of 1999; and the OECD Declaration on International Investment and Multinational Enterprises, 1976. It will be seen that though some of these sources are long standing others are very modern indeed, as is the UK’s endorsement of them.

The Constitution of the International Labour Organisation, established in 1919 begins with three fundamentals: the universal and lasting peace can be established only if it is based upon social justice; the conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled; and an improvement in those conditions is urgently required; as, for example, by the regulation of the hours of work, including the establishment of a maximum working day and week, the regulation of the labour supply, the prevention of unemployment, the provision of an adequate living wage, the protection of the worker against sickness, disease and injury arising out of his employment, the protection of children, young persons and women, provision for old age and injury, recognition of the principle of freedom of association, and other measures; the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries. The ILO Declaration of Philadelphia, 1944 reaffirmed the fundamental principles of the ILO and, in particular, that:

(a) labour is not a commodity;
(b) freedom of expression and of association are essential to sustained progress;
(c) poverty anywhere constitutes a danger to prosperity everywhere;
(d) committed the ILO to the goals of full employment and the raising of standards of living, satisfying work, training, wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all in need of such protection; the effective recognition of the right of collective bargaining, and other matters.

The ILO’s Declaration of Fundamental Principles and Rights at Work 1999 included the fundamental proposition that:

economic growth is essential but not sufficient to ensure equity, social progress and the eradication of poverty, confirming the need for the ILO to promote strong social policies, justice and democratic institutions;
in seeking to maintain the link between social progress and economic growth, the guarantee of fundamental principles and rights at work is of particular significance in that it enables the persons concerned to claim freely and on the basis of equality of opportunity their fair share of the wealth which they have helped to generate, and to achieve fully their human potential.

The United Nations Charter proclaims that we the peoples of the United Nations determined to... reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women... and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of living in larger freedom, and for these ends to... employ international machinery for the promotion of the economic and social advancement of all peoples.

It demands "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

The United Nations Declaration of Human Rights 1948 states its first premise that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world."

The International Covenant on Economic, Social and Cultural Rights 1966 states at the outset that "the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights."

Thus those values which should shape a modern Workers’ Charter – social justice, equality, dignity, respect, participation, democracy, freedom and solidarity – can be seen to be derived from universal and absolute standards adopted across the civilized world.

Modernising the employment relationship

A modern, efficient employment relationship founded on the values above will involve a change in the balance of power between employer and worker. It will displace the Victorian notions of "master and servant" where the omnipotent master is in complete dominance over the cowed and subordinated servant – a notion which continues to influence government and employer thinking. Such an employment relationship is not just antiquated grotesque; it is also foolishly un economical. The Conservative laws which have done so much to embed management prerogative and disempower workers and the rights and capabilities of unions to represent their members effectively must be replaced by a Charter of Workers’ Rights. In their place must be laws which guarantee the fundamental rights of trade unions and trade unionists, laws which give workers the essential protections and guarantees which are necessary in a modern society.

The contemporary nature of the Charter is important. The Charter must be appropriate to deal with modern problems, such as the issue of globalisation – a problem identified in the core documents above but not felt too much as yet as internationally as the multi-nationals use modern technology and economic power to play off one part of the globe against another. The Charter must be flexible enough to deal with the new current need to defend public services against privatisation with its consequent denigration of terms of employment, loss of employment, degradation of public services, and the imposition on taxpayers and consumers of the burden of funding the profiteers.

On the other hand the Charter should not be addressed to transient needs. It should be as absolute as it can be made. Its fundamental principles must be true and relevant whatever the state of the economic cycle or the political complexion of the Government.

One vital principle which must be central to any...
How to develop a Charter of Workers' Rights

The Charter of Workers' Rights is the right to collective bargaining. The restoration of collective bargaining is the central means of achieving a balance of power, democracy, participation, justice and dignity in the workplace. The changes to labour law over the last twenty or so years have seriously undermined collective bargaining to the extent that the UK now has the lowest proportion of workers in collectively bargained conditions of any country in the EU. This means that millions of workers have no input whatsoever into their terms and conditions of employment.

The essential restoration of effective collective bargaining involves a lot of detailed law. Not only the well understood need for modifications to the UK's statutory recognition procedure, but other legal changes are entailed, such as the internationalisation of national law. Industry-wide, collective bargaining, the restoration of the Fair Wages Resolution, applying collective agreements to all employers in the industry and region, giving collective agreements primary over individual contracts of employment, the right to secondary action against collective agreements to be observed, and so on. The legal mechanisms needed to make the right to collective bargaining a reality are too detailed for the Charter but they need to be borne in mind when drafting it.

Finally, the Charter will be worthless if it is simply re
garded as a ringing declaration of intent. It is in the legal and other tools (including industrial action) to ensure that the Charter rights are effective and can be enforced. One of the main problems with the international standards referred to above is that many of them whilst ratified by the UK are not enforceable and are merely paid lip-service by successive govern-

ments. The international laws which the UK has ratified (and it has a good record on ratification) must be imple-
mented in our national laws so that workers can enjoy their protection and enforce them against employers who seek to gain competitive advantage by adopting lower standards in other countries.

Indeed, by the adoption in the UK of a 'Workers' Charter' made up of international law, this country would be setting an example which might lead to the compulsory im-
plementation of these civilised minimum standards in the millions of workers throughout the world exploited by global-

isation. This could be achieved by making international trade and international trade agreements conditional on international labour standards. But a first step must be the implementation of these standards in the UK.

A Charter of Workers' Rights

1 dignity and fair terms
Every worker has the right to dignity at work, to a fair wage and to just conditions of work.

2 health and safety
Every worker has the right to a safe and healthy working environment.

3 non-discrimination
Every worker has the right not to be discriminated against in relation to dismissal, redundancies, transfers, overtime, terms and conditions of employment.

4 job security
Every worker has the right to job security: to fair income security in retirement, sickness and unemployment.

5 income security
Every worker has the right to fair income security in retirement, sickness and unemployment.

6 union membership
Every worker has the right to form and join a trade union and to be treated with equality in equivalent circumstances.

7 union autonomy
Every worker has the right to fair income security in retirement, sickness and unemployment.

8 industrial action
Every worker has the right to take industrial action for the protection of his or her occupational, social and economic interests (or those of any other worker) without being in breach of contract, and without threat of dismissal or discrimination.

9 union representation
Every worker has the right to have the Charter of Workers' Rights effectively respected and enforced for the protection of his or her occupational, social and economic interests (or those of any other worker) without being in breach of contract, and without threat of dismissal or discrimination.

10 effective remedies
Every worker has the right to have the Charter of Workers' Rights effectively respected and enforced for the protection of his or her occupational, social and economic interests (or those of any other worker) without being in breach of contract, and without threat of dismissal or discrimination.
New Act, same old injustice

This government should be standing up to the media-fuelled hysteria over asylum seekers but their latest Asylum Act, argues Sadat Sayeed, plays into the hands of the racists
The proposed Mental Health Bill and a few spiteful neighbours, could potentially put us in the asylum, says Nick Cohen

End for redundant Parliament is lower than the stock trick. Getting through the security and into that half-empty audience is usually a matter of minutes. On Wednesday I turned the corner into Parliament Square and stumbled on what looked like the first night of a West End hit. Hundreds were piled up in front of the steps. They can't be desperate, see the whirlpools of Ian Duncan Smith, I thought, Prime Minister's Questions are over.

After 20 minutes of meandering backings, I reached the front and saw the cause of the delay. The police were insisting on full body scans. They followed up every beep from covered water or buckets. 'Worried about al-Qaeda?' I asked as an officer shoved a probe under my coat. It was far worse than that. The mad were lobbying Westminster, the police were sewn.

The strictest security I've seen around Parliament was ordered to protect our representatives from mentally ill constituents. If the proposed Mental Health Bill becomes law, the Government believes the cops will be too busy. It has been promised that the decision that psychiatrists can identify who will be a killer and lock them up before they strike. At the moment, doctors can only incarcerate those whose illnesses can be treated. If the Department of Health and the Home Office have their way, people who can't be helped will be imprisoned. The plain word for what the Government wishes is just as Arab is being held without trial while MI6 thinks they may be terrorists, but hasn't evidence which would stand scrutiny in open court, so the mentally ill will be imprisoned without trial because psychiatrists think they may be violent one day.

The usually curious world of mental illness has united to denounce Ministers' medical Utopianism. Psychiatrists and psychologists have failed to coalesce because they haven't the faintest idea who will be murdered. Dr Tony Zigmond of the Royal College of Psychiatrists has quantified his colleagues' ignorance. Even on the kindest assumptions the reliability of predictions, 2,000 people will have to be incarcerated to prevent one murder. At worst, that figure is £3000.

His numbers give a hint of why New Labour has aroused unanimous contempt. It is pandering to the prejudice the police at Parliament displayed: the inchoate fear that the mentally ill are one message from God away from exploding with wild rage. It's a lie, as Ministers should know. The Department of Health established in 1999 that of the 550 or so homicides in England and Wales each year, about 20 are committed by people with a psychosis. It is safer, much safer, to walk unaccompanied through a psychiatric hospital than pass a pub. But the Government is not proposing the interment of drunks. It is merely feeding the fear that the 630,000 mentally ill people in Britain are unexploited bombs.

Everyone is blaming gesture politicians for the coming authoritarianism. Jack Straw, a master of the debased art, promised to get tough after Michael Stone was found guilty the horrible murders of Lyn and Megan Russell. Stone's conviction is not to be trusted. When forensic evidence, the prosecution relied on the tainted testimony of prisoners who said Stone confessed to them while on remand. One admitted taking money from the tableau. A second forced a retrial when he admitted lying under oath. We may one day have the bitterly comic knowledge that the greatest change in mental health law in a century was turned on a man who had been a grassy, but a qualified police joke is also on at least a few of the Government's critics.

Western cultures are saturated with counsellors. When granted prosperity, a substantial minority responded not to helping others or creating meaning, but by ejaculating a gusher of selfish tears about their own travails and woes. Their belief that the human condition could be reclassified as a sickness and cured by buying pills and conversations with strangers was indulged by the mental health industry which ballooned on the proceeds of egoism.

The best example of the imperial claims of psychiatry is the Diagnostic and Statistical Manual of Mental Disorders (DSM), the 'bible' of the American Psychiatric Association and many psychiatrists around the world. It has disorders for each and every one of us. Heroin Kinchloss and Stuart A. Kirk, two spectacular American academics, showed how the DSM has turned everyday behaviour into profitables illnesses. A busy executive complains she can't sleep (Major Depressive Disorder). A man you last met at school confesses he still has a grudge against you (Paranoid Personality Disorder). A wife says that after 10 years she no longer finds her husband the rapping she once was (Hypochondriacal Sexual Desire Disorder). A chronicler blots that he can't write a word without 40 Silk Cut and a gallon of coffee by his side (Addictive Personality). Your sister says she can't get her old boyfriend out of her head (Obsessive-Compulsive Personality Disorder). A colleague says he'd rather be on his own with friends (Schizoid Personality Disorder). This is a limited selection. The DSM's list of disorders runs to 866 pages.

And that's just psychiatry. Phillip Hodson of the British Association for Counselling & Psychotherapy told me there were about 300 competing varieties of therapy in Britain - all offering the promise that they know what is wrong. Any fraud or dunce can be a counsellor because, true to form, New Labour refuses to regulate this booming small business sector while tearing up the civil rights of the mentally ill. No one knows how many counsellors are out there. The highest estimate is that there are over 20,000 of these unknown millionaires.

The Government may be more in tune with the sentiments of a country lost in therapy than the therapies who oppose it. To a public which believes every variant of quackery or regrettably.

Identifiable illness, the absurd instruction that psychiatrists pick out criminals before they commit a crime sounds facile. Ignorable details for something to be done about the negligible threat of mad axemen are themselves a form of selfishness. Politicians who know how to play on insecurity can gravitate people who think they like all by stigmatising and bullying people they don't. If we are to win the 2003 election at all we must stop being afraid of what Ministers are asking what they think they're doing, they say, 'trust us. Only a few people will be caught by the new law.' Dr Zigmond doesn't believe them. He predicts an explosion in coercive treatment. What is being proposed is a return to the compulsion of Victorian Britain before the 1930 Lunacy Act limited the random commingling of the eccentric and simple into asylums. At present, one social worker and two doctors must agree before sectioning a citizen. If, for instance, a disturbed man's parents say they can look after him at home, the professions have the discretion not to section. The Bill removes that discretion. Symptoms persist, it says the man must be taken before a tribunal, which also has no discretion. If he is sent to a hospital, the tribunal can order psychiatrists to keep him in, when doctors agree he has been cured. 'What are we going to do with him then?' Zigmond asks.

Hundreds of thousands may be caught. Suppose you tell a doctor you feel stressed. He prescribes pills. Yes, you say you hate the thought of drugs and want a counsellor. The doctor insists. The Bill removes your right to oppose him. You will be compelled to swallow your pride and the recommended treatment.

Those psychiatrists who stay with the profession - many are threatening to retire early - will accelerate the trend to hyper-defensive medicine. There has been a 60 per cent increase in sectioning in the past decade, not, say, psychiatrists, because the population has got noticeably madder, but because of the bland culture. Doctors don't get critcised for the 999 patients they keep in, but the one they let out who commits a crime.

With its enormous majority this administration can ignore the protests of the 50 organisations which comprise the Mental Health Alliance. Defeat will be inevitable unless they are prepared to try a bold tactis.

Whitewall wants to give everyone the right to call on NHS trust and insist that its psychiatrists examine a citizen you think is dangerous. The trust can't refuse, and I'm sure rejected lovers and spiritual neighbours will enjoy using this rank's power to the full. The Alliance should warn that it will Require the Westminster NHS Trust to examine Tom Blair (Psychoic Delusions of Grandeur), the Rev John Milburn (Who's Who), Alan Millson (Attention Deficit Disorder), Estelle Morris (Maoist Personality Disorder) and Gordon Brown (General Anxiety Disorder).

Meanwhile, I must tell my colleagues that I have patented this unobstructive weasel. My lawyers will defend to the death my sole right to refuse treatment to divine into the phobias and paranoia which make up the mind of Alastair Campbell.

First published in The Observer.
Europe’s democratic deficit is growing with every year. The EU’s internal structures are as ever devoted mainly to monolithic policies of integration and enlargement, while externally the Union pursues increasingly undemocratic measures to prevent immigration and asylum, and to strengthen Fortress Europe. The institution now benefits from a new legitimacy and human rights, the Council of Europe, is starved of funds and often sidelined, while NATO and the increasingly compromised ICTY enjoy huge and growing budgets. Opposition and dissent often seem limited to individual member states. And what role if any can lawyers play?

The Haldane Society has helped to create one small but lively centre of resistance. At a meeting held on 1st May 1993 in Paris, the Haldane Society was one of the founders of the organisation which has become the leading grouping of socialist and democratic lawyers in Europe. Its name is (it sounds better in the original German...) "The European Association of Lawyers for Democracy and World Human Rights". It is, or so, the Haldane. The founders were the French, German, Italian, Swiss and English lawyers’ associations, all affiliated to the International Association of Democratic Lawyers (IADL).

Each of these founder associations is still active in Haldane. Better still, it has grown. There are now lawyers from 13 countries involved in organisations in Bulgaria, England, France, Germany, Italy, Romania, Spain, Switzerland and Turkey, and individuals in Belgium, Greece, Portugal, and other countries. The organisation still runs on a shoestring—subscriptions are fixed at a very low rate, and most events are self-financing.

The individuals who have contributed most to EJDM over the years are well-known to many Haldane members. They are EJDM’s General Secretary, the German trade union lawyer Thomas Schmidt; his former President, the French radical professor of international law Monique Chenuillier-Casteau; its present President, the Swiss internationalist lawyer Raphael Gans; and the Italian political campaigning lawyer Fabio Marcelli.

For the Haldane Society, its International Secretary Professor Bill Bowring has attended almost every Administrative Council and General Assembly meeting, and other Haldane members have attended when possible.

EJDM members have frequently attended Haldane events in England, including our London Conference on 11th May 2002, "Anti-Terror Law: Making the world not safer but less free".

The EJDM seeks to be an activist organisation, which also undertakes serious research and legal support for struggle. Thus, its pattern of work involves at least one major seminar each year, held in various European countries, at least two meetings of its Administrative Council, and participation in a wide range of campaigns.

Haldane members have taken part in most of the past year’s seminars. The first of these set the tone for the future, and was entitled "Europe, the beloved country? Nationality, Immigration, Asylum", and was held in East Berlin in 1993. About 20 Haldane members attended, and speakers included Tony Baynun of Statewatch and barrister Frances Webber.

The seminar was followed in 1995 by a solidarity conference with Turkish and Kurdish lawyers in Istanbul, Turkey, entitled "Democracy and Human Rights in Turkey". Later events included "The European Union – Institutions and Political Foundation" in Florence in 1996, at which Dr Steve Peers made an important contribution, "Environmental Law in Europe" in Brussels in 1997, "Labour Law under Conditions of Globalisation" in Paris in 1998, at which Haldane’s Steve Gibbons and Professor Steve Anderman presented papers; Istanbul in April 2000 on "Turkey’s entry to the European Union"; "The Right to Asylum is a Human Right" (with a paper by Haldane’s Perine Brennan) in Frankfurt in November 2000; and May 2001 in Paris on "The Charter of Fundamental of the European Union", at which the French and German members of the Convention gave a graphic description of the tooth and nail resistance of the UK delegation to the inclusion of Solidarity Rights in the Charter.

This series of dynamic interventions into the key issues of contemporary Europe has continued. In November 2001 EJDM held a well-attended conference in Frankfurt on Oder (on the border of the former East Germany and Poland) on the theme "Enlargement of the European Union. What will the consequences be? What demands should be made?", attended by Steve Gibbons for the Haldane Society.

EJDM has on frequent occasions contributed members to, or has itself organised, Missions of Inquiry, and trial observation teams. During 2001 EJDM members participated in a Mission of Inquiry to Turkey on the grave violations of human rights in Turkish prisons. They visited the IHD (Human Rights Association), families of detainees on hunger strike and killed in prison, Associations of Democratic Lawyers, a sociologist detained on 19th December 2000, eye-witnesses of repression in the jail of Umraniye in Istanbul, and the President of the Istanbul Bar Association. The Mission was associated with Eren Keskin at a sit-in front of the headquarters of IHD with the relatives of detainees. This has been followed by a Mission to Palestine in November 2002, which observed the trial of Marwan Barghouti.

The EJDM has also regularly issued statements in several languages condemning violations of human rights and breaches of international law, including – in particular – the continued attacks on Iraq, the effect of sanctions on its people, and condemning proposals for the use of force today.

However, a keynote of the EJDM’s activity over the past couple of years has been resistance to globalisation – in other words, international capital. Together with the Italian Democratic Lawyers EJDM organised an international Tribunal concerning the events in Genoa as well as in Goeteborg and in Davos, and the question of democratic rights under conditions of globalisation. An international preparatory meeting was to be held on 15 and 16 September 2001 in Geneva. This organised the International Commission on Fundamental Rights and Globalisation, whose members include Stéphane Felder (Swiss advocate), Professor Luigi Ferrajoli (Rome) Dario Fo (Italy, winner of the Nobel Prize for Literature); the environmentalist Susan George, and Peter Weiss, lawyer (USA) President of the International Association of Lawyers against Nuclear Armament (IALANA). The first session took place in Genoa on 3rd to 5th March 2002, and attracted very wide publicity in Italy. The next meeting will probably take place in May 2003.

The Administrative Council of the EJDM was meeting again in Paris on Sunday 12th January 2003, and a wide range of future activities will be discussed. The first concerns the very important struggle against racism, and, in particular, the implementation by Germany of the EU’s "Racial Equality Directive", the deadline for which is 19th July 2003. A conference will be held in Berlin on 31st to 1st January 2003, organised by ENAR, the Open Steer, a centre against Racism, with EJDM which is a member of ENAR. Issues of domestic law are not forgotten, and on 15th-16th March 2003 in Dresden, the German member organisation, the VDH, is organising a conference, with German judges, and socialist and social democratic politicians, on "The Public Prosecutor for a Democratic Society." The main event of 2003 will be an international conference on "War Crimes", which will be held in Geneva, probably on 17th May, followed by the Biennial General Assembly of the EJDM.

EJDM members and associates are very welcome to attend any of these events. If you would like to be kept informed please contact the International Secretary, Professor Bill Bowring at bbowr@londonmet.ac.uk.

Stop the war demonstration: Saturday 15th February, London. Haldane Society members meet outside Temple tube station at 12 noon.

Annual General Meeting: See notice on page 11

Appeal for office equipment: Computer urgently needed, contact Rebekah at rebekahmaxine@gmail.com

Beyond the law: Camp X-ray and the detainees

Speakers: Louise Christian confirmed
Conor Gearty invited

7pm, Tuesday 11th February 2003 at Conway Hall, Red Lion Square, London WC1
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