“LET FREEDOM REIGN”

Inside: BARBARITY & HUMAN RIGHTS IN IRAQ
ASYLUM: ‘ANOTHER BLUNKETT BLUNDER’
plus: Putin’s election, Vanunu Released, ‘Culling’ solicitors in London
## Contents

**Number 39 June 2004 ISBN 09 54 3635**

### News & comment

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
</tr>
<tr>
<td>10</td>
</tr>
<tr>
<td>12</td>
</tr>
</tbody>
</table>

### Iraq: barbarity and human rights

Nick Toms reflects on the images from Abu Ghrabi that shocked the world

### The legal black hole

Phil Shiner reports on the deaths of innocent Iraqis at hands of British troops

### Torture for human rights

Richard Hermer and Martyn Day on an attempt in the US to strike down a law

### What about the ‘Egypt 3’?

Andy Eaton asks why three British nationals are still being held in prison

### Putin’s election triumph

Bill Bowring wonders what the Russian President’s victory really means

### London culling?

Greg Powell on LSC, DCA and LCCS and what they spell for solicitors’ firms

### Haldane News

Catrin Lewis reports from the AGM, and Hannah Rought-Brooks from Damascus

### Book review

Sadat Sayeed recommends CAMPACC’s *A Permanent State of Terror*

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**Production editor:** Andy Smith

Printed by East End Offset, London E3

Cover picture: Jess Hurd | Many thanks to all our contributors

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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.

**President:** Michael Mansfield QC  
**Vice Presidents:** Kader Asmal; Louise Christian; Jack Gaster; Tess Gill; Helena Kennedy QC; Dr. Paul O’Higgins; Michael Seifert; David Turner-Samuels; Professor Lord Wedderburn QC  
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**Treasurer:** to be confirmed by Executive  
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**Haldane News**

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>30</td>
</tr>
</tbody>
</table>

**Book review**

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>31</td>
</tr>
</tbody>
</table>
In praise of plain speaking

N ewspaper is the language of New Labour. The Attorney-General speaks of the Guantánamo Gulag being ‘unacceptable,’ while extolling the virtues of permanent detention without trial in the new Long Kesh at Belmarsh. This, he boasts, is a ‘flexible’ approach to ‘fundamental’ human rights.

The Home Secretary goes on a jolly to Amritsar and meets descendants of the non-violent crowd massacred by the British Army in 1919. He speaks of his plans for security-vetting defence lawyers, for lowering criteria for admissibility of evidence to permit convictions based on intelligence service reports – those same agencies that produced such reliable evidence of Iraq’s 45 minute WMD capabilities – for convictions in these most serious of cases based only on the balance of probabilities and, while we’re about it, for removing the right to jury trial in cases of terrorism and organized crime. Lest we forget, the victims of Amritsar were murdered for protesting against imprisonment without trial.

The Defence(!) Secretary claimed ignorance about torture of detainees in Iraq, saying he had not read an ICRC report about breaches of the Geneva Conventions by British and American forces. Why had he not read the report? Because it wasn’t a ‘report.’ It was an ‘interim document.’ Meanwhile, Mr. Hoon steadfastly refuses to order inquiries into the mounting death toll of British soldiers shot in their own barracks at home in the UK.

The Prime Minister says he wants to ‘derail the gravy train of legal aid.’ to deny access to justice for those here who have escaped brutal regimes abroad. In one Sun-sational phrase he denounces human rights lawyers and stokes the fires of xenophobia. Meanwhile, he seeks to derail the jurisdiction of the International Criminal Court by supporting the exemption of US soldiers from international justice.

I joined the Haldane Society over 30 years ago and the first meeting I attended was a talk by John Platts-Mills entitled “What does it mean to be a socialist lawyer?” He believed that socialists have a duty to speak out and to speak plainly. He was never afraid to do so himself, often at great personal cost, whatever the complexion of the government in power.

I share John’s belief. The Labour Party claims descent from Keir Hardie and Mary Wollstonecraft and pays tribute to the ideals of Nelson Mandela and Mohandas Ghandi. In truth, however, the present government has done nothing to advance the cause of workers’ rights, little to further women’s empowerment and even less to address the causes of institutionalised racism and discrimination against ethnic groups within the United Kingdom.

The Haldane Society has always welcomed socialists of all persuasions. We believe in social equality and social progress. We fight for the rights of all to have equal access to social justice. At the outset of the Cold War a move was made to expel all communists from the Haldane.

That move failed. Our members fought anti-communism, we have fought anti-Irish prejudice, we fight racism and discrimination on many fronts and today especially we must reach out today to embrace our sisters and brothers in Islam, who are targeted by not only the Daily Mail and the BNP but by Blunkett and his police forces throughout the country that have so strenuously resisted implementing the MacPherson recommendations.

I agree with our Vice-President Louise Christian in calling David Blunkett unfit for office. He is the most reactionary Home Secretary in living memory. I have no illusions that the Haldane Society on its own has the clout to remove him from Whitehall but I do know that we have a duty to work together with all progressive people and organisations to expose the threat that this man – together with the mandarins who urge him, Geoff Hoon and Lord Goldsmith, further on down the path of authoritarian justice – poses to justice, equality and progress in this country.

At our AGM we were privileged to hear an inspired call to action by my great friend Courtenay Griffiths QC. His analysis of the US efforts to undermine the International Criminal Court was a tour de force attack on the illegitimate use of force. We plan to publish this in full in the next Socialist Lawyer. He reminds us all that, despite the undoubted monstrosity of Saddam’s regime and the importance of overthrowing it, the true motivation and effect of the US-led ‘coalition’ was, and remains, an imperial enterprise. Tony Blair’s cringeing partnership in that coalition makes our government complicit in Abu Ghraib, in Guantánamo and in the ‘shock and awe’ war that paid no heed whatsoever to the duty to safeguard as far as possible the lives of civilians.

I am greatly honoured to have been elected to chair the society at such a time of challenge for socialists. Together with Liz Davies, our new Vice-Chair, I would like to pay tribute to the great work that Catrin Lewis and Nick Toms (Chair and Vice-Chair respectively) have done over the past year. We are delighted that they have both agreed to remain on the Executive Committee and that Catrin will be continuing as editor of Socialist Lawyer. We are also extremely grateful to Rebekah Wilson, who will be continuing as Haldane Secretary and we want to thank John Hobson, our outgoing Treasurer, for his excellent work. I particularly look forward to continuing my international human rights work together with our international secretary, Professor Bill Bowring.

I want to be as accessible as possible to our members and can be contacted by email at richardharvey@juno.com.

I invite all members and friends to share with our Executive Committee your own ideas for building a socialist alternative to the government’s attacks on justice at home and abroad. We must and will work together with all progressive groups. Together I suggest that we take at least one piece of plain speaking as a starting point. BLUNKETT MUST GO.

Richard Harvey
Major breakthrough for inquest law in Lords verdict

The ruling in March in the House of Lords on the cases of Middleton and Sacker signifies a major breakthrough for inquest law. Both cases concerned prisoners who had hanged themselves in jail in circumstances where prison officers and health care staff might have done more to prevent the deaths. The Lords recognised in future there should be effective official investigations “by what means and in what circumstances” a person came by their death and that the jury should be given the opportunity to express its view on the surrounding causes of deaths.

We hope that this will result in more meaningful and accountable systems of investigation following custodial deaths.

INQUEST drew the Lords attention to the context in which these deaths take place; the escalating number of self inflicted deaths in custody and the fact that aside from hospitals there is no other area of state responsibility where so many people die from potentially preventable causes; and the shortcomings of the inquest system in delivering meaningful conclusions about the responsibility of state agencies in relation to those deaths.

Inquest juries will now have more opportunity to draw attention to any failings in the circumstances surrounding the death through the use of more narrative verdicts or in answers to questions put to them on factual matters by the coroner.

The significance of this was seen most recently in April at the conclusion of the inquest into the death of 16 year old Joseph Scholes who died in a young offender institution. The jury returned a verdict of ‘accidental death in part contributed because the risk was not properly recognised or appropriate precautions were not taken to prevent it’. They also answered a long questionnaire given to them by the coroner in agreement with all parties, which drew attention to system failings they had identified.

The coroner then publicly announced that he was bringing the circumstances and issues arising from Joseph’s death to the attention of the Home Secretary through the provision of the inquisition, questionnaire and various expert reports. He also recommended that a public inquiry be set up to examine, in particular, sentencing policy with regard to children as this was an area that was outside of the inquest’s remit.

This was a meaningful conclusion to an inquest that heard disturbing evidence about systemic failings to protect a vulnerable and damaged child while in the care and custody of the State.

In March, the issue of public funding was raised in connection with the Roger Sylvester case. Following the unanimous ‘unlawful killing’ verdict returned by the inquest jury the police officers concerned announced they were to judicially review the decision. A private committee meeting of the Metropolitan Police Authority who had paid for the police officers representation at the inquest had agreed to fund the officers’ legal costs incurred as part of their judicial review.

INQUEST arranged a meeting with the MPA Chair and lobbied committee members about our concerns about public money being used to fund police officers’ representation given that the family had been turned down for legal aid to take part in a judicial review that they have not chosen to be a part of. Our intervention resulted in the MPA recognising that the Sylvester family should be on an equal footing and they would fund both parties.

INQUEST LAW is published three times a year, ring 020 7263 1111 or email inquest@inquest.org.uk for subscription details.

February

12: Lord Saville, who is heading the Bloody Sunday Inquiry, announces that no action would be taken against journalists who refused to name their sources, or paramilitaries who refuse to identify colleagues.

25: The constitutional reform bill is published and puts all ministers under a duty to uphold judicial independence and bars them from seeking to “influence particular judicial decisions through any special access to the judiciary”. It will abolish the ancient office of Lord Chancellor and also establish a new Supreme Court, at an estimated cost of £32m, removing the UK’s highest court from the House of Lords to make it independent of the legislature.

March

1: Crown court judge throws out a terrorist prosecution case against six activists for human rights in Turkey. Judge Haworth said: “Were this prosecution to continue it would bring the administration of justice into disrepute amongst right-thinking people.”
Belmarsh detention protest

Two hundred protesters gathered in early April to protest at London’s Belmarsh prison against continuing detention without charge or trial for 13 people in the UK. The men were being held under emergency powers in the Anti-Terrorism, Crime and Security Act 2001. They have never been charged with any criminal offence, nor is there any apparent intention to charge them. The government was only able to do this by derogating from the European Convention on Human Rights.

Organised by the Campaign Against Criminalising Communities (CAMPACC) the protest was backed by a wide coalition of groups from the Green Party to the Association of Muslim Lawyers.

When I spoke, I welcomed the demonstration on behalf of the Haldane Society and said that protests such as this provided practical solidarity with the people detained behind the walls of Belmarsh and was also part of an important political campaign to keep pressure on the government. I said the Haldane Society is opposed to detentions without charge, otherwise known as internment, that the government should put up or shut up and, if there is no basis to charge the detainees, they should be immediately released.

I said that internment was used in the 1970s in Northern Ireland, until it had been declared unlawful by the European Court of Human Rights, that the Irish community were well aware of how internment had not only breached the human rights of those interned but had been used as a weapon to intimidate and criminalise the whole of the Irish community. Internment is now being used against the Muslim community.

Gareth Peirce, the men’s solicitor, said: “They don’t know the evidence against them, they just know they are locked up. The hearings are held in secret and the lawyers are not told either.” She stressed how important it was that we were there, outside the prison, and that they would be aware of our presence and heartened by that.

Other speakers included Jean Lambert, Green Party MEP for London, Sait Akgul, Kurdish activist and Respect candidate, journalist Paul Donovan, Dr Siddiqui from the Muslim Parliament, Gareth Evans (Voices in the Wilderness) and Chris Nineham from Globalise Resistance.

CAMPACC is working with Liberty and other civil liberties pressure groups to keep up the pressure to free the men. The appeal hearings of nine of the detainees held without trial at Belmarsh, Woodhill and Broadmoor were due to start on Wednesday 7th July at the High Court. More info from CAMPACC on 020 7586 5892 / 7250 1315 or go to: www.cacc.org.uk

Liz Davies
Making contact with children work

In May, Mrs Justice Bracewell (the senior judge in the family division after the president, Dame Elizabeth Butler-Sloss) again focussed attention on the law’s attitude to disputes between divorced or separated parents about contact with children, when she commented that judges sometimes need wider enforcement powers. Such powers are needed in intractable disputes about contact where the parent with care of a child defies court orders, Mrs Justice Bracewell said. She was speaking after giving judgement in a case (V v V) where she transferred residence of two children, aged six and eight, to the father.

She had found that the mother’s allegations against the father were unfounded and had been made to frustrate contact, that the children had been subjected to emotional abuse in the process, and that the mother lacked capacity to change.

As the father was well able to care for the children, Mrs Justice Bracewell decided that the need for the children to have a relationship with their father could be achieved only by transferring residence to him.

She said that the court could remedy the problems, but only in part, by procedural improvements, and that there was also a need for new legislation to give the judiciary powers to enforce orders: i.e. by referring parties to mediation, to a psychiatrist at an early stage, to place a party on probation with a condition of treatment, to impose community service orders and to award financial compensation from one parent to another, for example the cost of a lost holiday.

Mrs Justice Bracewell’s comments came soon after Mr Justice Munby made a wide-ranging criticism of the family court system when dealing with contact disputes.

In April he said in a judgement that he felt sympathy for the father who left the court in tears, as he had to abandon his battle for contact with his seven year old daughter. He said that the father was justified in feeling let down by the court due to the increasing complaints about the “secrecy” of family proceedings.

He decided to give judgement in public as a contribution to the ongoing debate about the role of the court in contact and residence applications.

The courts purport to be neither pro mother nor pro father. In practice, however, most young children remain in the care of their mother. There are instances where mothers deliberately alienate children to prevent contact taking place.

Mr Justice Munby’s judgement is seen as a turning point in the search for solutions to make contact between children and their absent parent work. He criticised the delays of the court system, absence of judicial continuity, lack of an overall timetable, the court’s failure to get to grips with allegations made by one parent against the other and defiance of the court orders by the parent with care. He made a number of proposals to improve the system and also suggested that imprisonment – even for a day or two – might be appropriate for those parents who defy court orders.

Monika Pirani

April

11: Five judges from House of Lords rule that the government’s obligations under the Human Rights Act to carry out “effective and independent” investigations into killings by state agents did not apply to deaths that happened before the act came into force in 2002.

23: A black activist who suffered “unwarranted and unreasonable targeting” by police officers wins a substantial out-of-court settlement from Scotland Yard. Detroy Lindo was stopped 37 times by police, charged with 17 offences but never convicted.

63: CPS publishes figures showing a jump last year of 12% to nearly 4,200 in the number of race hate crimes received by prosecutors. Also prosecuted were 18 cases of religiously aggravated crimes, the first time figures have been published on this type of hate crime. Islam was the “actual or perceived” religion of the victim in 10 out of 18 cases. In six of these, the accused was also Muslim.

The increase in race cases received by the CPS in 2002-2003 followed a 20% jump the previous year.
News & Comment

Potters Bar crash: we need an inquiry

At the end of April it was reported that rail maintenance company Jarvis and Network Rail had accepted liability on behalf of the rail industry for the Potters Bar crash, in Hertfordshire in May 2002, in which seven people lost their lives. Jarvis sent a letter of apology to the bereaved and injured.

As the lead solicitor for the bereaved and injured from the crash I have discovered that, despite the apology, Jarvis and Network Rail executives were briefing the press that the admission of liability did not mean that either Jarvis or Network Rail were accepting that their actions caused the crash.

In fact, an admission of liability does mean that the companies accept that their negligence caused the crash, but clearly Jarvis does not really mean to accept blame; they are engaged only in a cynical manoeuvre.

The transport secretary, Alistair Darling, has refused to hold a public inquiry into the crash, but instead there are to be inquests into the deaths of seven people. However, an inquest cannot reach a verdict which allocates blame. I have threatened to issue proceedings to ask the court to order a public inquiry instead of an inquest. The government will have been advised that these proceedings on behalf of the bereaved would be more likely to succeed if there was no admission of liability.

The behaviour of Jarvis, which has recently been awarded yet another contract to renew the rails along the same length of railway line, makes the case for a public inquiry unanswerable.

Louise Christian
Christian Khan
solicitors

News

6: Paddington rail crash

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8: Government proposes

8: Government proposes

14: The home secretary,

14: The home secretary,

18: The government

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6: Paddington rail crash

8: Government proposes

14: The home secretary,

18: The government

20: The home secretary

Socialist Lawyer • June 2004 • 7
Fairford trial rulings bring war into court

On 12th May Mr Justice Grigson gave his ruling on what legal arguments will be allowed in the impending trial of the ‘Fairford Five’. They are anti-war protestors who, in three separate actions at RAF Fairford in Gloucestershire last year, tried to reach and damage US bomber planes, or damage aircraft support vehicles, in their efforts to resist the war on Iraq. All five defendants deny the charges put before them. They are facing three separate trials as Socialist Lawyer goes to press.

In previous hearings the defendants’ attempts to plead that they acted to prevent an unlawful war were rejected on the basis that the decisions to launch a war were covered by Crown prerogative and cannot be questioned in a court of law. Nevertheless, this did not prevent the judge ruling that this would not prevent them arguing at their trials that they were using reasonable force to protect property or to prevent what they honestly believed to be war crimes.

In what has been seen as a surprise move, the judge allowed that “secondary effects” of government foreign policy could be open to examination in British courts. The legality of the war itself however was confirmed to be outside the court’s jurisdiction. What “secondary effects” is still needed to be defined but it is likely lawyers will argue for inclusion of the controversial act of loading cluster bombs onto the US planes at Fairford.

The judge has also allowed other criminal law defences for consideration. These are the possibility of defences under the Criminal Damage Act 1971 and the Criminal Law Act 1967. Defendants might argue that they used “reasonable force” to protect property, or to prevent what they honestly believed to be war crimes.

Defence lawyers for the Fairford Five have already said they will seek a ruling from the Court of Appeal, on whether discussion of the lawfulness of the war is “non-justiciable”.

Ashok Kanani

Elections show fascist BNP can be beaten

Before the 10th June elections the British National Party boasted: “Elections 2004. The year we break through.” The BNP’s leader Nick Griffin even invited the French fascist Jean-Marie Le Pen over to Britain in April to plan how they could work together when Griffin became MEP in the north west.

But Griffin did not win and the BNP did not get anyone elected to the European Parliament or the London Assembly and were beaten into sixth place in the London mayoral election. Although the BNP won four new councilors in Bradford, this was out of a record 101 candidates they stood across Yorkshire, which they claimed would be their “jewel in the crown”. In Burnley, which the press dubbed as the BNP’s “base”, the BNP lost a substantial number of votes in the council elections. It shows that they are not an unstoppable force.

But no one should be complacent about these results. Undoubtedly, the UK Independence Party (UKIP) did take some votes from people who would have voted BNP. But they still got an average of 5 percent in the European elections, in the West Midlands that figure was 7.5 percent and in Yorkshire the figure was 8 percent.

But UKIP is not the main problem for the BNP. The launch of Unite Against Fascism, the national organisation that has brought together the major trade unions and anti-racist groups, has helped build campaigns against the BNP. One campaigner from Yorkshire reported: “We went into areas with local people and built for mass mobilisations of people leafleting against the BNP. At least 150 people took part in these activities in Wakefield alone, where we handed out 45,000 to 50,000 leaflets. The role of the unions was very important. Unison directly mailed its 9,000 local members. The nature of our campaigning, and calling them fascists, was what won. Our leafleting demoralised them and in some areas they didn’t campaign. It gave people confidence to take on the BNP and we met people who were going around taking down their placards.”

With the general election likely to be only a year away, Unite Against Fascism is urging people everywhere – particularly those where the BNP have councillors or got good votes – to get active. For more info go to www.uaf.org.uk

Matt Foot

May

29: Government announces a public inquiry into the murder of an Asian teenager, Zahid Mubarek, who was placed in the same cell as a known violent racist Robert Stewart, who then bludgeoned Zahid to death.

1: An official report finds that staff at Yarl’s Wood detention centre used racist and abusive language and used control and restraint more than other centres. But the prisons ombudsman’s report states there is no culture of racism or abuse at the centre.

5: The CPS announces that a five-year police reinvestigation had not produced a strong enough case to prosecute anyone for the 1995 murder of Stephen Lawrence.

21: More than 400 foreign nationals are being held well beyond the end of their sentences in England and Wales. A Penal Reform Trust survey shows that prisoners cases have been lost in the system or they face other delays in their deportation.

22: The appeal court rejects appeals by the Home Secretary against High Court rulings that denying housing and subsistence benefits to those who claim asylum as soon as they enter the UK was in breach of article 3 of the European Convention of Rights Act.
The first hearing in Genoa of the prosecution of 29 police officers for offences committed during the G8 summit anti-globalisation demonstration in July 2001 started towards the end of June.

Ninety-three demonstrators staying at the Diaz School in Genoa were severely beaten in a police raid. More than 60 needed hospital treatment and all 93 were arrested and detained in harsh conditions for five days, firstly in a police compound at Bolzaneto and subsequently in prison. During this time they were denied any access to legal or consular support.

Originally the police claimed those staying at the school were responsible for violence, but all 93 have been completely cleared by Italian magistrates of any offences. Instead 29 police officers are now charged with brutality, perjury and defamation. The charges against them include offences of perjury relating to the planting of Molotov cocktails in the school.

Significantly, high-ranking officers who were responsible for the raid are among those being prosecuted, including those who sanctioned the search of the school and eight squadron leaders.

Around 40 of the 93 protesters returned to Genoa to witness the proceedings. Many of the protesters are now linked to proceedings as civil parties, including all five British people who were staying at the Diaz school.

The British Government has still not condemned the brutal assault carried out by the police against innocent demonstrators, nor has it offered any support to the British victims. Indeed at the time Tony Blair praised the police.

● Matt Foot, Michael Fisher Solicitors, solicitor for two of the victims: Richard Moth and Nicola Doherty

Members of the Public and Commercial Services Union (PCS) working in the Prison Service have been locked in a long running pay dispute, which has seen two 48 hour stoppages this year.

The dispute has followed the imposition of a below inflation cost of living increase of 1% which for many is a real terms pay cut. Strike action has been a last resort for members who feel they have been left with no choice as management dug their heels in, taking an increasingly hardline towards pay.

Messages of support from Haldane members would be welcomed and should be sent to Mike Nolan, PCS Prison Group President, PCS, 160 Falcon Road, London SW11 2LN.

Back prison staff dispute

PCS General Secretary Mark Serwotka pictured with Pentonville prison PCS members on their picket line in April

Genoa victims return to see police officers in the dock

Press conference in Genoa

June

31: “Advice deserts” in legal aid are leaving people in some parts of the UK facing eviction and domestic violence with nowhere to turn for legal help, say two studies from Citizens Advice.

14: A Commission for Racial Equality inquiry says that at least 14 police forces and several police authorities have been so poor at cracking down on racism within the ranks that the threat of legal action may be needed to make them change.

17: Firefighters cut their ties with Labour. The link stretches back to the first world war and Labour will lose £50,000 a year plus practical support during the general election. The FBU follows the RMT, expelled for backing rival organisations, out of the party.

21: The right of gay people to take over tenancies when their partners die is upheld by the Law Lords. The Court of Appeal gave the same rights as heterosexuals to homosexuals in November 2002.

23: Police Chief of Humberside refuses to be suspended by David Blunkett after damning verdict on police by Bichard inquiry into the Soham murders.
Mordechai Vanunu was drugged, kidnapped and locked up for 18 years after

The longer he spent in prison, the more he became recognised as the most famous whistleblower of his age and the foremost nuclear prisoner of conscience. At 11.15am on 21st April, as he appeared in the forecourt of Shikma prison, surrounded by the world’s press, accompanied by his brothers Meir and Asher and numerous burly wardens, the Israeli security forces must have found it hard to believe what they were seeing and hearing.

When Mordechai Vanunu had been sentenced to 18 years, the first eleven of which were spent in solitary confinement, after being ruthlessly and brutally kidnapped in Rome by Mossad agents, the Israeli authorities could not have imagined that so many years later he would be the centre of world attention.

Instead of a man broken by the long incarceration and torture he had suffered, Vanunu appeared strong and resolute. He raised his arms in triumph. Having survived the cruel treatment he had received he had become a symbol of resistance to a violent and cruel regime; and now a voice against oppression and for peace.

To a mass of sound booms and cameras Vanunu declared, “I am a symbol of the will of freedom. You cannot break the human spirit... I am proud and happy to do what I did,” adding, “they had not succeeded to make me crazy.” He called for the Dimona reactor to be opened for inspections and denied that Israel needed nuclear arms; he supported the right of Palestinians to live side by side with Jews; denounced the restrictions on his movements; and then described all those who had supported him throughout his 18 years in prison as heroes. In fact, within the space of a few minutes, most of the issues that the censors had sliced from his personal correspondence, for so many years, were broadcast to an immeasurably larger and more attentive world audience.

Outside the prison gates a large crowd of anti-Vanunu protesters, many called there by the extremist group Kahane, hurled abuse and threatened to break through the inadequate, lacklustre, police presence. As Vanunu was hustled into a waiting car by his anxious brothers, a group of young Israelis supporting Vanunu and using a megaphone could be clearly heard repeating “Close Dimona, no more Holycausts.”

For a few moments it looked as if the car would be blocked, but then it managed to escape with Mordechai flashing a victory sign, in contrast to his now famous ‘kidnapped’ message 18 years previously. Almost immediately members of the large international delegation, made up of representatives from ten different countries, with their Israeli colleagues, began singing, “Mordechai is free, Mordechai is free” much to the anger of those who had come to curse Vanunu for being a ‘traitor’.

As we retreated to the coaches many of the multi language posters declaring Vanunu a peace hero, were grabbed and ripped up including a couple of much admired banners. Meanwhile the media was still trying to get interviews with the better-known delegation members for their reaction to the dramatic events of the morning. The cameras followed actor Susannah York and MPs Jeremy Corbyn and Colin Breed; interviewers were after Mairead Maguire, the Irish Nobel Peace Prize laureate; the young Japanese couple from Hiroshima; Fredrik Heffermehl from Norway and Vanunu trustees Ben Birnberg and Bruce Kent. Nick and Mary Eoloff, Mordechai’s American adoptive parents, were again interviewed, before we managed to get away.

As we returned to Jaffa, tired after two days of vigiling at the prison, we were confronted with having to consider cancelling our planned venue for the reception with Mordechai that evening. The constant media vilification of Vanunu, in some of the press, before his release, had led to various threats to his life. This, allied to the security services leaking where Vanunu was to live, resulting in heavy media pressure outside the flats, had forced us to cancel that accommodation. Now the same concerns were paramount regarding Vanunu’s...
safety at the reception. By mid afternoon the restaurant had been cancelled and coaches booked to take us to St. George's Cathedral in Jerusalem where, we had just heard, Vanunu had been given sanctuary by the Rt. Rev. Bishop Riah. Thank God!

We travelled to Jerusalem with a degree of uncertainty and in nervous anticipation. One of the many heavy-handed vindictive limitations placed on Vanunu for his release was that he shouldn’t meet foreigners or talk to foreign media. He had also been told that he would not be allowed to leave Israel for six months, subject to renewal at the end of that time; that he should not go near any embassy or within 300 yards of Israeli boundaries and get permission before he moved elsewhere. All these restrictions were being imposed under the despised and little used sections 108 and 109 of the 1945 British Mandate.

Throughout that day and the next the Israeli and world media gave enormous coverage to Vanunu’s release and what he said. If only, was our common response, the media has shown such an intent interest in the earlier years of Vanunu’s incarceration, when his suffering was at its worst, such coverage might have made a difference to his treatment.

Most remarkably Yehiel Horev, the top security chief, always in the background but never seen or mentioned, responsible for so many of the false accusations against Vanunu, was heavily criticised for the first time, including by Knesset members, for his overzealous and draconian restrictions, some difficult to monitor, that made Israel look stupid. It was even suggested he should be dismissed, as he had helped to create the intensive media interest that Israel had so wished to avoid.

In his prison press statement Vanunu had already said, “…my case is dead. There is no more secrets. All the secrets were published and is in the hand of the whole world.” And of course he is correct. Every nuclear expert acknowledges that Vanunu can have no information after 18 years that could threaten Israel’s security. What the Israeli Government fears most, is not Vanunu revealing secrets that he still has, but that, as a heroic and courageous figure, created by their own severe punishments, he would attract wide interest in their nuclear capabilities thereby challenging their policy of nuclear ambiguity. (A good indicator of this: three weeks after Vanunu’s release, the internet search engine Google has registered 56,200 entries under his name). And the more attention given to these issues the clearer the paradox that a war with Iraq was started over the lie that it had weapons of mass destruction, while not too far away, Israel, the one country in the Middle East with nuclear weapons has received no warnings or demands for inspection of its facilities by the International Atomic Energy Agency (IAEA).

During the next few days Mordechai, with his ever present and watchful brother Meir, received many visitors. His adoptive parents, the Eoloffs, were at St. George’s most days. Mary Eoloff commented, it was so wonderful to say whatever we want without prison guards listening and interfering, and to be able to relax with Mordechai.

In the immediate future the Association of Civil Rights in Israel (ACRI) will be helping Vanunu to prepare an appeal to the High Court to have the restrictions lifted. It is crucial for Vanunu’s safety that the appeal is successful. There are real threats to his life. Vanunu will not be really free until he is able to leave Israel and start his life afresh in another country.

Now is not the time to relax our efforts on Mordechai’s behalf, or even to reduce our pressure on Israel to sign the nuclear non-proliferation treaty and open Dimona to inspection. Mordechai still needs the support of all of us.

As he said to me when we met at St. George’s, smiling, “today is the second day of my new life.” If we are to make sure that Mordechai’s new life can continue, without threat, in another country of his choice, then we must continue the Campaign until he is completely free.

If you would like to write to Mordechai, his address is: Mordechai Vanunu, St. George’s Cathedral, PO Box 19018, 20 Nablus Road, Jerusalem 91190, Israel. He is still keen to carry on his wide correspondence.

If you would like to contribute we are still collecting money for the ongoing Campaign and for Mordechai’s future. Please send donations to: The Campaign to Free Vanunu and for a Nuclear Free Middle East, 185 New Kent Road, London SE1 4AG. Cheques can be made out to: The Vanunu Trust.

Ernest Rodker watched as he left prison

Mordechai’s adoptive parents, Nick and Mary Eoloff, being interviewed outside Ashkelon prison

Picture: Carmel Martin

Socialist Lawyer ● June 2004 ● 11
Asylum seekers and campaigners for the repeal of Section 55 of the Nationality, Immigration and Asylum Act held a sleepout in Trafalgar Square, London in February. Success arrived in late June when Blunkett dropped his controversial policy of denying basic food and shelter to asylum seekers who fail to lodge their claim for refugee status as soon as they arrive in Britain.

Inset, opposite page: Glasgow Campaign to Welcome refugees organised a rally in support of three Iranian Kurdish hunger strikers in March. They were protesting against eviction and deportation after their failed asylum application. They sewed up their mouths vowing ‘they would rather die’ than be sent back to torture and possible death in Iran.
To demonstrate his ongoing commitment to ensuring the human rights of some of the most vulnerable people in our community David Blunkett recently announced the following: “People want an asylum and immigration system that they can have faith in. These measures, the product of detailed work over several months, strengthen in important ways the package of reforms contained in the Bill. They will prevent abuse of our immigration laws, while underlining our commitment to providing support to refugees so that they can make a full contribution to the British way of life. I remain committed to providing a safe haven to those fleeing persecution and helping refugees to integrate and contribute to our society. People who have been granted refugee status, citizenship or are being supported by the taxpayer must recognise that with these rights come responsibilities and support to those unable to return must be dependent on them giving something back to the community.”

It is assumed by the use of the word “people” in the first instance Mr Blunkett is referring to those outside the immigration system rather than asylum seekers, would be immigrants and their family members. The measures proposed further entrench the notion that asylum seekers and immigrants are second class citizens.

According to the Government’s own statistics the number of asylum seekers has fallen by 40% over the past year. This is partly due to a general fall in population movements and partly owing to the government’s strategies to prevent people arriving in the UK. Irrespective of the rights or wrongs of those policies the Government has failed to capitalise on this. To the general population this would appear to be the one area of government policy that has been successful. Had the Government chosen to use their spin machine this was a clear opportunity to make political headway and turn the domestic political debate away from this issue. Instead, the Government continues to dream up yet further draconian policies reinforcing the idea that asylum seekers and immigrants are second class citizens and somehow “other”.

There is no apparent recognition from the Government that the direct result of its policies and rhetoric has been the rise of the far right and the increase in conflict between different communities. Far worse than this lack of recognition is the belief by the Government that a restrictive line on the rights of immigrants is needed to placate the far right. “We need to be the BNP to beat the BNP” is not an intellectually sound argument.

The Big Brother household (as an example of a cross section of society!) includes Ahmed, a British citizen who was a refugee from Somalia. In one of the exchanges between inmates a discussion about politics arose. Ahmed criticised government policy. The response from some of the other housemates was that if he did not like the government why come here? Quite rightly Ahmed defended his right to political opinion and restated the fact that he is now British. This scene demonstrates the attitude within British Society that if you are a refugee or other immigrant you do not have the same rights.

It is all very well continually stating that you are committed to the integration of refugees but where no action is taken to facilitate this integration and Government rhetoric continues to describe refugees as “other” how is such integration supposed to take place? Integration can only begin when refugees are not considered second class citizens, when they are treated in an equal manner to British citizens and when the government ensures that the “rights” that bring the “responsibilities” are respected. This position needs to be clear and unequivocal. Further, until asylum seekers are respected as human beings recognised refugees will never achieve the integration Mr Blunkett talks about. The Government needs to recognise that whilst it no longer uses the words “bogus asylum seeker”, every press statement and debate in parliament seeks to reinforce in the minds of the public that this is what they are talking about.

The new measures proposed are further examples of this. In particular refugees lose the right to backdate any claim for benefit to the date on which they made their claim for asylum and those who are unable...
to return will be required to perform community service in order to obtain any means of survival. Historically those recognised as refugees have been entitled to backdate their benefits. This was because a person becomes a refugee once they are outside their country of nationality or former habitual residence. The recognition by the Secretary of State that a nationality or former habitual residence. The benefits. This was because a person becomes a refugee once they are outside their country of nationality or former habitual residence. The Secretary of State that a person is a refugee is merely a formal declaration of that status.

A British Citizen who was entitled to benefits but had to wait for a decision relating to their eligibility would be entitled to backdate those benefits to the date of claim. In announcing this measure a further difference in status is developed between refugees and citizens.

Most refugees want to work, want to be self-sufficient and want the self esteem that is a consequence of that employment. In the statement made above the Government is reinforcing the stereotype that refugees only come to the UK to gain access to benefits. Mr Blunkett’s public statements imply that even the most oppressed do not really deserve to be here and that they should be humble and grateful and recognise what a good thing the UK has done for them. Repeatedly stating that he is committed to the integration of refugees does not help when the rest of his speeches demonstrate that refugees are in fact “other”.

Although the position is changing, the Secretary of State does not currently return failed asylum seekers to Zimbabwe or Iraq. Limited returns take place to Afghanistan and more recently Somalia. In the case of Zimbabwe the Secretary of State suspended returns owing to concerns about safety for those removed from the UK. In particular it was believed that the Mugabe government may view such returnees as having links with the opposition owing to the fact that the UK is a strong base for the MDC in exile.

Removals to Iraq did not take place when Saddam Hussein was in power. The Home Office’s original policy was to grant exceptional leave to remain to those who were failed asylum seekers in recognition of the fact that it was unsafe to remove people. This was largely because the evidence demonstrated that on return people would be prosecuted for an imputed belief that they were in opposition to the regime. In about 2001 this policy stopped. It is believed that the reason for this was that the granting of exceptional leave to remain was an incentive to people to come to the UK and that if the policy was stopped word would get out amongst the Iraqi community and they would no longer come to the UK.

A similar situation was the case with Afghanistan and Sierra Leone.

Somalia is slightly different. The civil war which broke out in December 1990 in southern Somalia continues. The Home Office policy was to grant four years exceptional leave to remain. This was reduced to 12 months in 2001 and now no exceptional leave to remain is granted to failed Somali asylum seekers. The Home Office explanation of this change of policy is that Somalia is now safe. It is unclear how the Home Office came to this conclusion. In conjunction with the Dutch and Danish immigration authorities the Home Office have conducted numerous fact-finding missions to ascertain the true situation in Somalia over the past four years. What is notable about these missions is that the delegation on all occasions was unable to travel to South Somalia because it was unsafe for them to do so. No explanation has been given as to how the Home Office conclude that it is unsafe for them but safe for Somali nationals. Even more disturbing is the newest report which lists those at most risk in Somalia as including returning members of the diaspora. The airline that flies to Mogadishu advises travellers to make security arrangements before travel.

Many people who arrived in the UK for legally justified legitimate reasons find themselves now being categorised as having no right to remain here and yet are unable to return. There are three main reasons for this and the fault lies directly at the door of the Government. Firstly, many people have had to wait years for an initial decision to be taken on their claim. For example a person from Iraq who feared persecution at the hands of the Ba’ath Party may not have had a decision until after the intervention of the Coalition forces and the removal of that party from power. That person would not now be able to demonstrate a current well founded fear of persecution (the test for a grant of refugee status).

Secondly, in recent years the Home Office has either suspended consideration of claims from specific countries e.g. Kosovo where it was apparent that anyone from the ethnic Albanian community could demonstrate that they were a refugee and operated a wait and see policy. When the situation improved and the government was able to refuse most of those claims decision making resumed (Government statement of 16 October 1999).

Finally where there were clear grounds for recognising that most people from a given country were in need of protection, instead of granting refugee status the Secretary of State would grant exceptional leave to remain. He then argued that a person granted exceptional leave to remain would not go to court and argue that he should have been recognised as a refugee. For many this has meant that when their period of leave to remain has run out the Secretary of State has refused to extend that leave even whilst recognising that the person cannot leave the UK.

The inherent dishonesty of the current system is that whilst it is recognised that it is not possible to safely remove such people it is not considered that they would be in danger if removed. There is no logic to this position.

Where a person is in this situation they are not entitled to work and they are not entitled to claim benefits. The prohibition on work includes voluntary work. The language used by Mr Blunkett reinforces the view that these people are scrounging off the state and have no wish to contribute to society. The fault for the lack of employment, according to his statement lies squarely at the door of the failed asylum seeker. It is disgraceful that the Government can put out public statements designed to mislead the public and to increase hostility towards a group of people who cannot return to their home country. Particularly when in many of these cases the inability to return is exacerbated by the Government’s own foreign policy of engaging in aggressive wars against sovereign states.

Community service is usually a punishment meted out to criminals. This measure places failed asylum seekers unable to return in the same class as criminals. This is manifestly wrong. Community service in these circumstances undermines the fundamental right to respect for human dignity.

There is no reason in principle why failed asylum seekers unable to return should not be entitled to work. The Government, instead of developing community service schemes, should lift the prohibition on employment and allow people to work thus lifting the dependence on subsistence levels of support and providing much needed labour for the economy.

“"The Government should lift the prohibition on employment and allow people to work thus lifting the dependence on subsistence levels of support and providing much needed labour for the economy.""
live and labour on land belonging to another person and to render some determinate service to such other person whether for reward or not and is not free to change his status.

Forced or compulsory labour was defined by the ILO as: “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” (ILO 29)

Under the system proposed by the Secretary of State there is no element of choice and the scheme is clearly not voluntary. Whilst the details of this policy do not seem to have been worked out yet and it remains to be seen what the Government’s true intentions are, there is a real danger that the proposed measures will amount to forced labour prohibited under Article 4 of the ECHR. Article 4 of the ECHR incorporates Article 8 of the ICCPR in the following terms:

“4 (1) No one shall be held in slavery or servitude. (2) No one shall be required to perform forced or compulsory labour. (3) For the purpose of this Article the term “forced or compulsory labour” shall not include: (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention; (b) any service of a military character, or in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service; (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community; (d) any work or service which forms part of normal civic obligations.

Under Article 4(2) forced or compulsory labour, the European Court has adopted the definition of forced or compulsory labour provided by the relevant conventions of the International Labour Organisation – eg Van der Mussele v Belgium (1984) 6 EHRR 163. The European Commission has paid particular attention to ILO Convention No 105 which sets out five categories of forced labour:

i) political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political social or economic system;
ii) mobilising and using labour for purposes of economic development;
 iii) labour discipline;
 iv) punishment for having participated in strikes;
 v) racial, social or religious discrimination.

Such a requirement for a person to work would appear to be imposed owing to social discrimination. The failed asylum seeker would be unable to decide where to provide his labour and for what level of remuneration. He would not be free to change his status and by virtue of the fact that he is unable to leave the country because it is either impracticable or unsafe there is nothing he could do to avoid the need to provide his labour to the state.

Serfdom has not been an acceptable system of employment in the UK for well over a century and it is alarming to see the current Secretary of State proposing the reintroduction of this system and the creation of an underclass of peasants.

Any system where a person is required to work to obtain subsistence should be based on fair and equal employment practices. The remuneration should be equivalent to at least the minimum wage with the same rights to holiday pay, sickness benefit and maternity cover. Similarly guarantees as to fair employment practices and health and safety legislation should be effected.

Similarly if a person is required to give their labour they should have an element of choice as to the area in which they live and the accommodation in which they live.

The development of the National Asylum Support Service has seen a rise in slum landlords charging the Government well over a market rent for the accommodation provided. A person required to perform community service should be entitled to move to better quality and cheaper accommodation.

Many people unable to return have been victims of torture and remain traumatised as a result. For some this will limit their ability to work. What will happen to them? Others will be single parents with young children.

This proposed measure is particularly regressive and a wholesale removal of basic and fundamental human rights. Unfortunately it is unsurprising and a further example of the regressive steps taken during the course of this government.

Louise Hooper is a barrister specialising in Immigration and Asylum at 2 Garden Court Chambers, London.
WAR CRIMES WAR CRIMES WAR CRIMES WAR CRIMES WAR CRIMES

BARBAR
The images of grinning US soldiers, cigarettes drooping from their mouths whilst one of them points at the genitals of a row of naked men or drags a naked Iraqi across the floor on a leash were truly shocking. Prisoners being raped and abused in Saddam’s old torture chamber. The symbolism was so unbelievably monstrous that not even the US’s most fervent detractors could have dreamt it up.

Not surprisingly, the White House, the Pentagon and their apologists in the British government initially attempted to lay the blame for these atrocities on rogue elements in the armed forces and their accompanying civilian contractors. This will not do.

The actions of the individual soldiers and reservists who carried out these shameful acts must, of course, be condemned. However, the real culprits are those who sent them there and who, it is increasingly clear, sanctioned the abuse of prisoners. There is an ever growing body of evidence, including from soldiers who served at Abu Ghraib and the Red Cross that this abuse of Iraqi prisoners was both systematic and sanctioned at the highest level.

According to *The Independent* on Friday 14th May, “Soldiers who served at Abu Ghraib, from the former commander at the prison, Brigadier General Janis Karpinski, who has been relieved of that duty in disgrace, to NCO’s, have said that it was military intelligence officers who ordered the guards to abuse Iraqi prisoners… This comes even as it emerged yesterday that the CIA’s interrogation techniques for Al-Qaeda suspects are so brutal that the FBI has forbidden its agents to sit in…..”

Unfortunately, whilst all this is shameful and despicable, it comes as no real surprise. Colonial occupation often led to atrocity in the past. The worst outrage in the history of British occupation of India saw 379 massacred at Amritsar. Almost twice this number were killed by US troops in Fallujah recently, mostly women and children.

Western values, especially since the end of the cold war, have been proclaimed the pinnacle of human civilisation and elevated to the status of human rights. Even on his visit to crime scene Donald Rumsfeld in May told US troops that, “the United States is the last best hope of humankind.”

The collapse of the Soviet Union in 1991 was greeted with triumphant glee by the west and, in particular, the US who saw it as confirmation of their superior social order based on the free-market economy and the western view of democracy. At least one commentator, Francis Fukuyama, went as far as to declare the end of history. It is this democracy, of course, that Bush and Blair still seek to export to Iraq and the rest of the Middle East.
When soldiers are being sent to war by a country that proclaims itself to be the world’s bastion of liberty and freedom, it should surprise no-one that some will identify their captives as a lesser species and even animals. Colonialism has always brutalised the occupying armed forces who increasingly lose sight of the fact that the people they suppress by force are in fact human beings like themselves.

These abuses are also a product of the hypocrisy and double standards that infect the whole western approach to human rights.

In practice, so-called human rights in the western world have been filled with a material content that reflects the needs and interests of capitalist society. For instance, freedom of expression in practice is limited to a handful of media barons. They have been used internationally as a means of exporting western ideology to aid the social and economic subjugation of the rest of the world. The true nature of human rights has been graphically illustrated by the ease with which they are discarded where they collide with western interests.

Robert Cooper, Blair’s foreign policy adviser, has expressed this double standard approach quite starkly declaring, “Among ourselves we keep the law but when operating in the jungle, we must also use the laws of the jungle.” (The Guardian, 7th May)

This, of course, is fundamentally racist. It harks very much back to the colonial era where non Anglo-Saxon races were looked down upon as inferior savages whose lands were deemed empty of civilisation and, consequently, open for occupation. In Australia, for instance the doctrine of Terra Nova was only abolished in relation to Aborigine lands in the 1970s and 1980s.

The double standards can be seen throughout the West’s policy in Iraq and the Middle East. Whilst human rights’ conventions proclaim that everyone has the right to life, the US and their allies see nothing wrong with invading and bombing a country and killing and maiming countless civilians in order to reinforce their world status after September 11th and, of course, to keep a grip on Middle East oil reserves.

Bush and Blair have condemned Palestinian suicide bombers as terrorists. Yet when their allies in Israel carry out extra-judicial assassinations from the safety of their helicopter gunships this is sanctioned as part of the war on terror.

The right to a fair trial has been blithely ignored in Guantanamo Bay and now Iraq. Amazingly, the former commander at Guantanamo, Major General Geoffrey Miller, has now been transferred to Iraq to deal with the prisons crisis. Even prior to his arrival evidence from Iraq shows that prisoners there have also
The right to self determination in Iraq remains a distant hope. The much-vaunted ‘transfer of sovereignty’ recently is largely a cosmetic exercise with real control remaining in the hands of the US and coalition occupying forces.

been held there for months without ever being told the reason why.

The rights to free speech did not stop the US civilian administrator Paul Bremer closing down newspapers which he deemed had an anti-western message such as that of Shia cleric Moqtada al-Sadr. In June 2003 the US military seized “editorial control” of Mosul city’s only TV station because of its “predominantly non-factual/unbalanced news coverage” – meaning the re-broadcasting of Qatari Arab satellite network al-Jazeera.

Major General David Petraeus told reporters, “We have every right as an occupying power to stop the broadcast of something that will incite violence. Yes, what we are looking at is censorship but you can censor something that is intended to inflame passions.” According to a Wall Street Journal report (11th June 2003), a US army major was relieved of her duties and removed from the base when she argued that the order contravened principles of free speech.

The right to self determination in Iraq remains a distant hope. The much-vaunted ‘transfer of sovereignty’ recently is largely a cosmetic exercise with real control remaining in the hands of the US and coalition occupying forces.

The transfer surprised Mr Abadi, a British-trained engineer who spent nearly two decades in exile before returning to Iraq last year. Apparently, he found out the commission had been formally signed into law only when a reporter asked him for comment about it. “No one from the US even found time to call and tell me themselves,” he says (Wall Street Journal, 13th May).

The Middle East is straddled by brutal autocratic regimes that have been propped up by the US. Little concern has been expressed about their lack of human rights provided they tow the Washington line. Saddam Hussein, of course, was one such dictator until he threatened to become too much of an influence in the region with the invasion of Kuwait when he was promptly cut down to size.

Away from the Middle East, the US and their allies have been happy to support all manner of despotic regimes where it suits their interests with a blind eye being turned to oppression, lack of democracy and human rights abuses. For instance, there is no clamour for an end to President Musharraf’s dictatorship in Pakistan because of his support for the war against the Taliban and Al Qaeda.

In the 1970s and 1980s the US stood behind virtually every corrupt military dictatorship in Central and Latin America as bulwarks in the fight against socialism. September 11th resonates in America because of the World Trade Centre. However, it is also the anniversary of the US backed overthrow of the democratically elected Allende government in Chile in 1973 and its replacement by the dictatorship of General Pinochet under which thousands were murdered or ‘disappeared’.

Those who join the armed forces do not normally do so for humanitarian purposes and those who seek to serve on the front line are unlikely to be the most determined emissaries of human rights.

The abuse of prisoners – civilian or military – is a war crime and clearly contrary to the various Geneva Conventions. However, the manner of investigation of US and coalition troops is very different to where similar allegations have been made against others.

The US and their allies have been happy to support war crimes trials in relation to those who have opposed them such as that currently being enacted in the Hague with Slobodon Milosovic. Tribunals have also been set up for Rwanda and Sierra Leone. One is proposed for the former Khmer Rouge regime in Cambodia. Though not, of course, for the US forces who committed countless atrocities in a country against which they never declared war. The first experience many Cambodian
peasants had of Western civilisation was from B52 bombers dropping napalm.

However, no such tribunal has been convened to investigate these war crimes by US forces or those of their allies in Iraq. The US has, of course, also refused to sign up to the newly created International Criminal Court. A couple of soldiers have faced court martial with one being sentenced to a year in prison. More trials make take place. However, there is no suggestion of any special war crimes investigation.

This difference in treatment has in the past been justified by saying that the existing war crimes tribunals represent a start and are better than nothing. However, this is a fundamentally false argument. So-called human rights based on double standards will never be taken seriously. The enforcement of standards on weak countries which the major western powers are not prepared to adhere or submit to themselves is imperialism at its very worst.

Socialist and progressive lawyers must demand that the UN set up a special war crimes tribunal immediately into the occupation of Iraq. The tribunal should investigate not just individual soldiers but, more importantly, the chain of command in the US and coalition forces. Socialist lawyers should, of course, also continue to support the end of the occupation of Iraq with the withdrawal of US and coalition troops and the return of sovereignty over their affairs entirely to the Iraqi people.

More generally, socialists must recognise that Iraq may represent a significant moment in the history of western capitalism. The theory of the end of history has foundered in the walls of Abu Ghraib and the growing quagmire of Iraq from which Bush and Blair will find it increasingly difficult to escape.

Far from the world being in the throes of the golden era of humanity with the US leading the way, it is more unstable and dangerous than ever. It is also a world where the class divisions are becoming a mighty gulf. The huge wealth of the small number of global companies that dominate the world economy is built from a world where increasing millions and billions have lives of abject poverty.

However, it is by no means certain that any new crisis of capitalism will see a revitalising of the left. Where once the impoverished masses of the colonial and ex-colonial world turned and embraced ‘communism’ (in practice, Stalinism) they now look to doctrines such as fundamentalist Islam. The age of the cold war has been replaced by the age of the war on terror. Mankind may well be moving towards the crossroads of socialism or barbarism. Our efforts now could help determine which path is followed.

Nick Toms is a Barrister at Doughty Street Chambers and a former Vice-Chair of the Haldane Society

THE LEGAL BLACK HOLE

Phil Shiner is a solicitor acting in the cases of 20 Iraqis killed or injured by British troops during the occupation. Their stories, often substantiated by letters from the British military, depict culpability of many regiments over a period of months

Baha Mousa was 26 when he died. A recent widower, following the death of his young wife from cancer, he looked after his three- and five-year-old sons and worked at a hotel in Basra. Over the course of three days last September, according to eyewitnesses, he and six other hotel employees were systematically beaten, abused, humiliated and tortured while detained by members of the Queen’s Lancashire Regiment. The treatment was sanctioned by at least one officer.

Their crime, it seems, was to work for the owner of the hotel, a man called Haitham, who had hidden guns in the building. Those responsible for the torture assumed (wrongly) that the men knew where Haitham was hiding.

Baha died three days later in custody. The death certificate variously records the cause as “cardio-respiratory arrest” and “asphyxia”.

Evidence from the other witnesses describes systematic abuse including a kickboxing ritual where soldiers competed to see how far they
could throw a detainee with their kicks. Kifah Taha Al-Mutar, aged 44, one of the detainees, developed an acute kidney problem and others suffered broken ribs, concussion, difficulty in breathing and various other injuries. Was this an isolated incident involving rogue elements within a single regiment?

All these stories suggest that, were the truth revealed by an independent inquiry, it would have dramatic implications for the accountability of the Ministry of Defence. It would also involve those high up the chain of command, including in government, who knew or should have known that something went terribly wrong during Britain’s occupation of Iraq. The evidence suggests that those responsible for the decision to go to war, and for the subsequent occupation, simply failed to plan properly, or at all, for the inevitable; namely, that the Iraqi population would not quietly accept the brutality of war and occupation. That brutality included the deliberate use of indiscriminate weapon systems, such as cluster bombs, in urban areas.

Let us not forget the other cases. One man was killed when British troops burst into his home as he prepared for morning prayers. Another was shot while repairing a pump on his farm. A woman was shot on the street delivering papers to a judge. Two men were killed by mistake when guns were discharged, as is the local custom, at a funeral. None of the cases suggest troops gave warnings in accordance with rules of engagement or fired in self-defence. At best, terrible mistakes have been made – and many of them, bearing in mind the written answer of armed forces minister Adam Ingram on 28th May that the government admits to 10 deaths in detention. At worst, British troops, and those who command them, can kill with impunity because there is no effective mechanism for accountability within domestic or international law.

There are those who seek to detract from the harsh realities of these cases. War, they say, has unfortunate consequences for civilians. But these incidents arise from a period after the official cessation of hostilities when Britain was in effective control of south-east Iraq, having assumed the functions of the local state, police, judiciary and legislature. Instead, these people turn their focus on to the lawyers who are portrayed as “ambulance-chasing” and “poison-tongued” for suggesting that unlawful killings must be subject to an independent inquiry, and that full accountability must include proper compensation.

The government’s legal case is crystal clear. It says that there will not be an independent inquiry or military investigation into the deaths. This is because, on its case, a legal black hole exists. The military can abuse, humiliate, degrade, torture and even kill Iraqi detainees, or other civilians conducting their lawful business on their own property, without being bound by the Human Rights Act, which the present government introduced in 1998. Unless an internal military investigation decides to court-martial an individual soldier, the relatives of those killed are left with nothing. I have been kept completely in the dark. Although there are, according to the national press, criminal investigations underway into at least the death of Baha Mousa, nobody has written to me on behalf of my clients asking for information or offering reassurance or an apology.

Under the regulations passed by the Coalition Provisional Authority, there is immunity for these acts under Iraqi law. The US and Britain want immunity to continue after June 30, putting emphasis on domestic accountability where, in practice, there is none. If this legal analysis prevails, principles of democracy and the rule of law count for little in post-war Iraq.
George Bush’s government is trying to persuade the US supreme court to strike down the most progressive and pro-human rights law on the American statute books – a law which allows multinational corporations to be held accountable in the US courts for human rights abuses abroad. It is not particularly surprising that a Republican government with links to big business should be behind such a move. But what has largely escaped notice is that Tony Blair’s Labour government is busy cheering it on from the wings.

Torture for Human Rights

An attack on human rights law is taking place in the United States. Richard Hermer and Martyn Day reveal who and what is behind it.
throughout America in compensation claims against those deemed to have violated the “law of nations”, widely interpreted as meaning breaches of international human rights standards.

The statute itself has an uncertain history. It came into being in 1789 but scholars are divided over its original purpose. Some believe it was designed to permit claims by refugees against the former English colonialists. It lay forgotten for many generations until the late 1970s, when it was dusted down by lawyers acting for the family of Joelito Filartiga, a 17-year-old tortured to death by a Paraguayan police officer.

The policeman had slipped out of Paraguay and was located living in New York, where lawyers brought a claim on the basis that his actions were in “violation of the laws of nations”. In a now-famous decision, the US second circuit held: “In the 20th century the international community has come to recognise the common danger posed by the flagrant disregard of basic human rights and particularly the right to be free of torture ... for the purposes of civil liability, the torturer has become – like the pirate and slave trader before him – the enemy of all mankind. Our holding today, giving effect to a jurisdictional provision enacted by our first Congress, is a small but important step in the fulfilment of the ageless dream to free all people from brutal violence.” The Filartiga family was awarded $10m, though they were never able to collect it. The policeman was deported.

Following that case, many others have been brought in the US courts by victims of human rights abuses. Philippine nationals sued the family of ex-dictator Ferdinand Marcos for torture during his rule. A group of Guatemalans successfully sued the country’s former defence minister for complicity in torture and extra-judicial killings. Women who were raped in Bosnia won a multi-million dollar compensation award against the Bosnian Serb leader Radovan Karadzic in a Manhattan court.

Victims rarely see any of the money they are awarded because the defendants have no assets in the US. But in most cases they have had the intense satisfaction of hearing their cases properly determined by a court of law and seeing their abusers forced to flee the United States. After claims were filed against German corporations and Swiss banks arising out of the Holocaust, political pressure secured large settlements, even though the lawsuits were eventually thrown out by the courts.

Until recent times the US Justice Department has endorsed the use of the ATCA by human rights activists. Now, however, it is seeking to argue that the act should be seen
In the early hours of 1st April 2002, these three British nationals pictured below, Reza Pankhurst, Ian Nisbet and Maajid Nawaz were woken at gunpoint and arrested in their homes in front of their wives and children.

Two years on, having endured physical and mental torture, including sensory and sleep deprivation, beatings and electric shocks, they remain incarcerated in prison in Egypt.

Andy Eaton asks:

Why?
The Bush government argues that the Act threatens foreign policy, endangers corporations, and harms the war on terrorism by annoying countries it needs as its allies in the war. But among those urging the Supreme Court to uphold the Act are a group of relatives of the victims of the September 11th atrocity, who included 209 foreign nationals. They argue in their brief: “Independent lawsuits by victims of terrorist acts can be extremely helpful to the government in its effort to track down terrorists and their sources of funding.” Critics of the US government’s stance point out that if the Bush administration gets its way, civil lawsuits against al-Qaida will be barred.

Amnesty International to be in breach of fair trial standards.

In principle the courts breach these standards the reality bordered on black farce. Daily the 26 defendants were transported in steel airless trucks for an hour long journey to and from court in temperatures often in excess of 35C. In the courtroom they were herded into a caged dock where they would stand for the days proceedings without refreshment or access to toilets. Within days of the opening the judge called a two-week adjournment after the prosecution presented some 47 boxes of un-catalogued exhibits. Upon return the evidence was to include such incriminating items as a sports magazine, an airline ticket and a passport. From there the trial crept forward at a snail-like pace punctuated by lengthy delays, including one lasting three months whilst Islamic scholars at the Al Azhar University cleared texts seized at the arrest of being seditious or incriminating.

The defence raised the issue that the state authorities had failed to produce evidence that Hizb-ut-Tahrir had ever actually been outlawed in Egypt. The prosecution argued that in the absence of any diktat banning the organisation, the lack of any express regulation or proclamation making Hizb-ut-Tahrir actually legal in Egypt, meant it must be then de facto illegal.

The sole witnesses for the prosecution, who claimed to be the arresting officers, where the interrogators from the State Security facility in Nasr City. Under examination they claimed the accused had confessed to their involvement whilst being questioned in the van on the way to the interrogation centre. The judge enquired how they knew that the three Britons would have understood the Arabic in which they were being questioned, the interrogator replied, because of the presence of books in Arabic at the Britons’ homes. The speciousness of this logic was not lost even on this state-appointed judge who speculated that the presence of books in Russian would have clearly indicated that they were fluent Russian speakers too. At no point were any of the three allowed to speak in their own defence and despite assurances to the British Consul that they would not, the confessions extracted by torture were submitted as evidence against them.

The hearing ended in late July 2003 with the judge announcing that a verdict would be passed on 25th December. On the 25th again in the face of concrete assurances made to the British Government, the judge announced a further three month delay and left without further explanation. In a process that lasted 15 months the 26 accused spent less than three weeks in court. The 26 were returned to the court on 25th March of this year where they were found guilty and sentenced to between 2 and 35 years, the 26 were returned to the court on 25th March of this year where they were found guilty and sentenced to between 2 and 35 years. The three were each given the maximum sentence despite the fact that they had not all been charged or convicted of the same offences.

From the arrest in 2002 the British Government have preferred the softly softly approach of Foreign Office representations and assurances. to official outcry and condemnation. It would be difficult for the British Government to make cogent criticisms of the treatment of the three whilst ‘standing shoulder to shoulder’ with the United States human rights abusers in Guantanamo and Abu Ghraib. Foreign Office minister Baroness Symons gained an assurance that the torture of the three would be investigated but as yet nothing has been done. It is likely that it will be treated with the same importance as other assurances given on the use of the confessions and the date of verdict. Nevertheless the contempt with which Her Majesty’s ministers have been treated, let alone the torture of her subjects, does not seem to have troubled Tony Blair unduly as he has happily holidayed in Sharm-el-Sheikh, as a guest of the Arab Republic, for the past three years.

For more information: www.free-egypt-3.org
After the recent overwhelming re-election of Vladimir Vladimirovich Putin as President of the Russian Federation, Bill Bowring wonders what are Putin’s real motivations and policies?

Sunday 14th March 2004, the day of the Russian presidential elections, I was in Russia – in fact in the Russian Far East, the city of Khabarovsk, on the eastern borders of China. I was not one of the election observers, though on my way back I met the solicitor Imran Khan, who was. I was working as an expert for the Council of Europe, lecturing police instructors on “Human Rights, Immigration, and Ethnic Minorities”. Reform of the Russian police, the Russian demographic crisis, Chinese immigration are all topics worth another article – but not this one.

I arrived at mid-day on Sunday – flying from London on early Saturday morning, with a 10 hour time difference – and the senior police officers took us on a tour of the city, with a stop while they voted. I have been travelling to the USSR and Russia since 1983, and the visit to the polling station was highly reminiscent of the Soviet period. Outside the polling station, loudspeakers played festive patriotic music. Inside, a special buffet was heaped with delicacies, while a special bookstall displayed an unusually tempting range of new publications. It was all very calm.

Over 69 million Russians voted, 71.31% of them for Putin. He was elected with a huge majority in all 89 of the subjects of the Russian Federation. In a number of ethnic republics – Tatarstan, Bashkortostan, Chuvashia and others – the vote for the president reached into the electoral stratosphere, 80-90% and more, that only Soviet leaders achieved. It was not a fair election, not least because since ousting the oligarchs Gusinsky and Berezovsky, the government now controls all TV stations. But it is only fair to add that the opposition, such as it is, self-destructed. The Communist Party of the Russian Federation, formerly a formidable electoral force, fielded an unknown candidate, amid allegations that it had sold places on its list of candidates to leading local entrepreneurs. “Yabloko” showed itself to be nothing more than the vehicle for the ambitions of its leader, Grigorii Yavlinskiy. Putin’s other “liberal” opponent, the Union of Right Forces (“SPS”) fractured on the egotistical posturing of its leaders, who included Anatoliy Chubais, responsible for the “voucher privatisation” that caused such misery in Russia in the 1990s.

Indeed, the arrest by armed gunmen on 25th October 2003 of Mikhail Khodorkovsky, the wealthiest man in Russia, and owner of the Menatep financial group and YUKOS oil, was a shot in the arm for Putin’s popularity, even if he has consistently denied complicity in the arrest. The public have not been fooled: nearly two-thirds of Muscovites polled a week later by the respected VTsIOM-A agency were sceptical about the Kremlin’s assertions that Khodorkovsky’s arrest was purely a criminal matter, and saw it as political. That, however,
did not appear to seriously erode support for Putin. The poll said Putin had 73 percent approval among 1,600 Russians polled, his highest rating for a long time. Khodorkovsky's trial has, at the time of writing, just begun. He remains in Moscow's "Investigative Isolator No.1", the infamous Matrosskaya Tishina ("Sailor’s Silence") prison, of the prosecutor's office, where he has been detained since his arrest.

Surveys carried out by VTISOM-A in 2004 have disclosed an even more surprising paradox. Nearly half the people polled see Putin as a guarantor of democracy and political freedoms, while 51% do not see the democratic gains made by Russia since 1991 as threatened by anyone.

So what is the nature of Putin's regime? One of the best descriptions I have seen is that by Gordon Hahn, who refers to Putin's "stealth authoritarianism". Why "stealth"? This is because every one of Putin's controversial actions, including Khodorkovsky's arrest, has been "minimal, nearly imperceptible, and thus credibly deniable". Of the most visible aspects of this process has been the inexorable rise of the siloviki, the so-called "power" ministries and agencies – the FSB (former KGB), Ministry of the Interior, prosecutor’s office, armed forces… Putin’s new and previously unknown Prime Minister, Mikhail Fradkov, has a KGB past, closely connected to Putin, who was of course a career KGB operative, rising to the top. The new Minister of the Interior, Rashid Nurgaliev (a Tatar) has come from the KGB. Nikolai Patrushev of the FSB, Vladimir Ustinov of the Procuracy – they are all leading examples of what the Carnegie Centre’s analyst and author of Putin’s Russia, Lilia Shevtsova, has recently called "a manifesto for official conservatism".

On the other hand, Russia’s print media are remarkably free and critical. The weekly newspaper Novaya Gazeta, circulated throughout Russia, regularly publishes Anna Politkovskaya’s uncompromising exposés of human rights violations in Chechnya and elsewhere. Another well-known weekly, Moskovski Novosti (Moscow News), was bought by Khodorkovsky shortly before his arrest, and is now headed by Yevgenii Kiselyov, the outspoken former TV commentator. It too publishes fearlessly. The popular radio station Radio Ekho Moskvyi broadcasts detailed critiques of Putin and his policies. The Russian political internet is unsurpassed. And the NGO sector, with human rights groups such as “Memorial”, Moscow Helsinki Group, “For Human Rights”, “Sodeyisviye” and many others, continues to thrive. My own University’s European Human Rights Advocacy Centre (EHRAC), whose Director is Philip Leach (formerly Liberty and KHRP), is working with Memorial’s Human Rights Centre to help Russian’s bring cases to the Strasbourg human rights court. The first six cases of Chechen civilians against Russia is having an oral hearing at Strasbourg on 23rd September 2004, and two of the young Russian lawyers working in EHRAC’s Moscow office will be appearing, together with me and Phil Leach.

Can Putin be characterised as a reformer at all? In one respect, the answer is yes. Since becoming president he has driven through an extraordinary set of reforms of the legal system. New laws have included the Criminal Procedural Code of 18th December 2001, the Arbitrazh (Commercial) Procedural Code of 24th July 2002, and the Civil Procedural Code of 14th November 2002. These have introduced jury trial for serious criminal cases throughout Russia except Chechnya; have greatly reduced the number of cases handled at first instance; have introduced an effective system of adversarial trial process, and much enhanced role for criminal defence lawyers. In addition, justices of the peace have been put in place throughout Russia, similar to district judges in the UK, taking a high proportion of civil and criminal cases, speedily, in local areas, and with considerable public satisfaction. Moreover, 43 billion rubles (more than $1.5 bn dollars) are being spent on judicial reform.

It is significant that these reforms mirror in several important respects – jury trial, JPs, criminal procedure – the great law reforms introduced by Tsar Aleksandr II in 1864, shortly after, in 1861, he had abolished serfdom. Aleksandr was a strong, autocratic Tsar, seeking to rebuild a strong Russia after its defeat in the Crimean War (1853-1856). Putin’s overriding aim is clearly to rebuild a strong Russia after its disasters following the collapse of communism. Aleksandr was no democrat, and nor is Putin. But Putin has understood that without the rule of law the “power vertical” which he desires is impossible. Several times before and after he was first elected, he referred to the diktatura zakona, the dictatorship of law, as one of his prime objectives.

So it was disturbing to note that in his somewhat rambling Poslaniye or “state of the nation” address to the Russians, Putin did not once refer to the dictatorship of law, rule of law, or law at all. Instead, towards the end of his speech, he said the following about Russian NGOs: “… not all of them are oriented towards standing up for people’s real interests. For some of these organisations, the priority is to receive financing from influential foreign foundations. Others serve dubious group and commercial interests. And the most serious problems of the country and its citizens remain unnoticed.” For human rights campaigners, mostly dependent on foreign funding, this was a chilling message.

Finally, stagnation can be exemplified in two ways. First, the final stage of legal reform, the introduction of an effective system of administrative justice, enabling citizens to seek review of administrative actions, which started in 2001, has stalled, with interesting between all the main actors.

Second, Putin, who was elected in part on his promise to deal with Chechnya, is getting nowhere. Following the assassination of President Kadyrov, the situation has deteriorated daily. Two days prior to writing, an armed raid into neighbouring Ingushetia left many dead including the Minister of the Interior. And on the day of writing Amnesty International published yet another devastating report. “Russian federal and security forces continue to carry out human rights violations such as extrajudicial executions, ‘disappearances’, arbitrary detentions, ill-treatment and torture, including rape, with impunity,” Amnesty said.

And Russia’s allies in the “war against terrorism”, especially Tony Blair, say and do nothing.
What an extraordinary time this is. The Legal Services Commission proceeds with its ‘culling’ policy in the metropolitan heartlands with a timetable that competitive tendering should take place in the spring of 2005. The Department of Constitutional Affairs, DCA has announced a fundamental review of the very purpose of Legal Aid, while the Clementi review of the regulatory regime of Legal Services includes not only issues about the Law Society and Bar Council’s maintenance of their regulatory roles as well as representative functions, but also alternative business models for the delivery of Legal Services which envisage the end of the solicitor/owner model and its replacement by other business models, which include, external, non-solicitor, investment and ownership.

It looks as if we are all going to be bounced from one regime of change to another, that we will have to react to fundamentally unjoined-up government and management while still constructing business plans, managing, motivating and delivering legal services.

A rationale for the cull?

Is the reasoning behind the ‘cull’ properly anchored in reality? Is there a logical chain of reasoning and problem solving? It appears to be common ground that the real problem of the Criminal Defence Service is its budget. Can any of us imagine that any of these proposals would be brought forward if there was no budget problem? But the real cost drivers of the budget are not solicitors in private practice or how we are organised; they are government legislation, increased funding for the police, the ever increasing technological scope of major investigations and the decisions taken by prosecuting bodies to launch spectacularly large and almost completely pointless cases into the Criminal Justice system. The latest government white paper envisages new crimes such as participation in organised crime, the re-introduction of super grasses and so on. This will add very substantial cases to the system. These are the Titanic of the budget. Much of the marginal fiddling is rearrangement of deck chairs, not on the deck of the Titanic but along the beach from where we can sit and watch these Titanic sail into view over the horizon. I am tempted to say that most of the passengers will have the initials QC.

“Over Supply”

A grand sweeping statement is made that there is “over supply in major cities”. Who said so, where is the evidence and what does it mean? We are entrepreneurs; we bring our own capital and endeavour to our enterprises. We are exactly what the government seek, private finance initiatives involved in the delivery of public services. We look for market opportunity; we position our firms where we believe they will succeed. Broadly, we do not go out of business. What we do is build vast amounts of social value in our interconnectedness with our tens of thousands of clients.

It is true that the rules, not of our making, encouraged multiple membership of Duty Solicitor Schemes and the proximate borough rule led to a number of firms looking at the market and choosing to be in the centre of many boroughs, to exploit the marginal higher rate Duty Solicitor work.

It is also true that there is a fundamental problem with the economy of scale in that the low rates and accessibility of work have tended to encourage small producers. We may reckon however that small firms are comprised largely of owner managers who try hard to provide high quality services and grow their businesses. Market forces have a number of elements. They include the talents, skills and leadership qualities of partners, their ability to create referral and reputation and their judgements about location and risk taking.

Many providers working alongside one another making those simultaneous judgements leads to some succeeding better than others. It also leads to high rates of consumer satisfaction and good delivery of services. That’s how markets work. If solicitors could not make a living and went out of business then I would believe in over supply. It’s not really oversupply but from the LSC view point inconvenient supply. Richard Collins has today spoken about introducing simplicity of payment and working on the basis of greater trust. These reforms are not dependent on the ‘culling’. They could be introduced at anytime and we could all have the benefit of them.

There are alternative ways forward. The rules could simply be adjusted. Duty Solicitor membership could be limited to a specific number of schemes. Travelling time could be limited to maximum of 45 minutes in respect of every claim regardless of circumstance. The emphasis could be placed on own solicitor supply. Richard Collins has today spoken about introducing simplicity of payment and working on the basis of greater trust. These reforms are not dependent on the ‘culling’. They could be introduced at anytime and we could all have the benefit of them.

In May, Greg Powell spoke to 140 members of the London Criminal Court Solicitors Association (LCCSA), who, at the meeting, agreed to levy members to campaign against government reforms. This is an extract from his speech...

LONDON CULLING?
“Padding out”
The allegation of padding out claims is an unsubstantiated smear. The answer appears to be that if the LSC agrees a contractual basis that firms will do a number of cases for a fixed price, this will avoid padding out. The firm will in fact have an incentive to do as little as possible as the price is guaranteed for the work. Padding out might well have been called maximising profit costs, instruction in which some commentators have made a good living.

This brings me back to the issue of over-supply because I did not deal with another cliche, that there are many lawyers standing around in the Magistrates Court with one file each when there could be one lawyer with many files. We have, as in so many government and public policy initiatives, come full circle. Much of the debate on the quality of legal services rests on academic research conducted by McConville and others who wrote an influential book, *Standing Accused*. The practices abhorred in that book included solicitors attending busy metropolitan city magistrates Courts with many files, using runners to interview people in the cells and elsewhere and dealing with the advocacy on the basis of a note passed by the runner as the case was called on. Of course, those were in the days before extensive AI, Plea before Venue and the complex sentencing matrix about to be cascaded upon us by the Criminal Justice Act 2003.

Can we deduce some principles underpinning competitive tendering? Well we can deduce one, namely the concentration of work. More work in fewer hands from the point of view of daily advocacy. In my experience every solicitor has more than enough work to do in the office.

The notion of confinement to a borough or boroughs representing a basis of selection is of course nonsensical. Just because it was adopted by the Community Legal Service with an almost wholly useless assessment of need, it does not mean that the CDS has to go down the same route.

The LSC is a failed organisation. It is structurally impossible for it to succeed because it cannot control its budget. Its individuals are threatened with the loss of their jobs (extermination) and in their flight from becoming nothing and to be effective, must find a programme of activity.

The ‘culling’ simultaneously displaces their feelings of alienation, fear and despair onto others, namely us; we could recognise this as a process occurring in a dysfunctional family.

It is policy born of fear; it is worth repeating – there has been no academic input; no pilot scheme, no costings, no criteria, no worked out scheme, no thought about the consequences and why choose for this experiment London, the most complex city of Legal Services provision?

Afer ‘culling’ there will be very few but large contractors. The mechanism to provide competition could be the invitation to non-solicitor corporate providers to bid for contracts. We can see a future where the work we do now is provided by Securicor, Group 4, Wackenhut and so on. There is already a pool of staff, namely ex-police officers who can work for low salaries as they have the benefit of their index linked pension. The social value and local access that we embody will have been swept away. What will also have been swept away is the solicitors profession as an independent institutional layer within our complex civil society.

“Bid Zones”
Bid zones envisage that the work in some sense can be calculated by Magistrates Court and police station volumes and percentages then “awarded”. Trying to confine firms to specific zones is fraught with difficulty and leads to bureaucracy and substantial complication, contrary to the objective of simplicity. There is also the danger of artificially limiting the economy of scale to a scale which is not actually economic or profitable.

There are no mechanisms for ensuring that small firms can grow or for selecting between them, which are likely to be workable.

Sensitive to issues of institutional racial discrimination, there is an idea that ethnic minority solicitors (however valued) should in some sense be specially protected by being given a share of the market. The institutional racism argument is that discrimination led to late entry into the profession and the opportunity to create business. Culling would therefore disproportionately affect non-white firms. We could actually extend the argument to the disabled, people of gender transformation and so on. How one small firm is to be discriminated against and another is not, when they meet all the criteria and are perfect is not likely to be solvable. This is all being made up on the back of an envelope and against the background of the privatisation of the railways, the internal market of the NHS and other triumphs of bureaucratically manipulated competition. We can sit with our envelopes and draw our numbers, “should that be 5% or 9%?” but this is only notional because actually there will be no control over what the firm does in terms of volume as it remains a demand-led system.

The hundred or so firms left will have contracts for limited period of time competing with one another and will presumably be under pressure to further lower the price as the budget will remain uncontrolled. I do have real concerns about independence, the loss of the current spine of provision and a reduction of solicitors to a state of infantile dependency.

What can we do?
My own view is that we should resist through political campaigning. Direct action, strikes or withdrawal of advocacy or police station services have limited impact. This is really a political question and it is bizarre that such a fundamental change should be envisaged at the time of Clementi and the fundamental review of Legal Aid.

What will firms spend on the annual dinner? Two, three or four thousand pounds per firm? How much is the LCCSA subscription: £55 per year! There is a complete mismatch of resources. A professional lobbying campaign will take money, but only a fraction of the annual dinner cost. You should stump up the £500 or £1,000 per firm and give us enough resources to run an effective campaign.
Annual General Meeting report

On 1st July the Haldane Society held its AGM at Conway Hall. The event was well attended with Courtenay Griffiths QC delivering a very interesting and well received talk on the US and the International Criminal Court. The thought provoking and wide ranging speech drew together themes including race, imperialism, the rule of law, justice and Marxism. There were a number of contributions from the floor and all agreed that the imperialist role of the US provides a continuing challenge to us as socialists and, as Courtenay pointed out, we need to become ever more imaginative in our response. Look out for the next issue of Socialist Lawyer for the full text of the speech.

The Treasurer and Secretary produced written reports to the AGM. Over the last year John Hobson has been carrying out the role of Treasurer from Manchester, with the assistance of Ashok Kanani. As John has now resigned from the post of Treasurer it is imperative that a suitable candidate to replace him is found as soon as possible. The core income of the Society continues to come from standing orders from members with other income being received from new member subscriptions mail from members with other income being received from new member subscriptions mail in the form of individual cheques, and through sales of Socialist Lawyer. The AGM recognised with appreciation the regular contributions made by those members with standing orders. The Treasurer noted the success of the Christian party which was held jointly with ICTUR and raised funds for both organisations and recommended that a similar event be organised this Christmas. At present expenditure has been exceeding income which has meant that the Society has to call on its reserves. This situation cannot continue and the new EC urgently needs to look at the question of funding and, in particular, at securing funds to ensure that Socialist Lawyer (on the production of which the majority of the Society’s funds have been spent) continues to come out regularly and to a high standard. In the absence of additional funding the outgoing Treasurer sadly had to recommend that Socialist Lawyer be limited to two editions a year.

The Secretary’s report covered the work of the Society over the last 15 months, this includes holding numerous public meetings on topics such as the legality of the war; human rights in the Occupied Palestinian Territories; detainees in Guantanamo, with eminent speakers including Mike Mansfield QC, Louise Christian, Rabinder Singh QC, Phil Shiner and Guy Goodwin-Gill. The Society has also worked together with CAMPACC (Campaign Against Criminalising Communities) to oppose the draconian Anti-Terror laws introduced in the UK, supporting meetings at the Houses of Parliament and providing speakers at numerous events around the country, including the recent demonstration outside Belmarsh Prison. The Society has also worked alongside Rights of Women and the International Centre for Trade Union Rights (ICTUR) and of course has continued to produce the magazine you are reading, Socialist Lawyer, three times a year.

The Secretary’s and Treasurer’s reports will be available shortly on the Society’s website at www.haldane.org as will the full text of the resolutions passed by the AGM.

The Resolutions, all passed unanimously, condemned the illegal invasion and occupation of Iraq and called for the immediate withdrawal of coalition troops; called for the removal of the Israeli built “security fence” in the West Bank; deplored the government’s proposal to make failed asylum seekers carry community service (see article by Louise Hooper in this issue of Socialist Lawyer), and the proposal to require foreign nationals to show they have lawful status in the UK before they will be allowed to marry.

Catrin Lewis stood down as Chair and Nick Toms as Vice-Chair to be replaced respectively by Richard Harvey and Liz Davies, both of whom are longstanding members of the Society and well-known political activists.

The elections took place unopposed and the new Committee is made up as follows: Chair: Richard Harvey; Vice-Chair: Liz Davies; Secretary: Rebekah Wilson; International Secretary: Bill Bowring; Executive committee: Catrin Lewis (Editor of Socialist Lawyer), Nick Toms, John Hobson, Adrian Berry, Claire Bostock, Tom Bradford, Hannah Brooks, Ashok Kanani, Rekha Kodikara and Monika Pirani.

The position of Treasurer is to be filled by the EC co-opting a suitable person as soon as possible. The AGM thanked J-B Louveaux for all his hard work as membership Secretary, J-B has had to step down as he has moved to Devon. Victoria Mitchell, a new member, has agreed to help out with membership records. The AGM also thanked Catrin Lewis and Nick Toms for their work over the past few years as Chair and Vice-Chair respectively.

Report from IADL Bureau Meeting in Damascus, Syria

The Bureau of the International Association of Democratic Lawyers met in Damascus in Syria in December last year. The Haldane Society is affiliated to the IADL and was represented by representatives, one of whom, Rebekah Wilson was a Bureau member and vice treasurer. The meeting was attended by lawyers from countries including France, US and Pakistan and countries in the region such as Iraq, the Lebanon, Palestine and of course from Syria.

During the course of three days the meeting discussed the work of the IADL in Korea, the American “Syrian Accountability Act”, their work with the UN and a report from a Spanish delegation to Iraq. There was also discussion on a proposed People’s Tribunal on War Crimes in Iraq.

Bill Bowring reported in the last issue of Socialist Lawyer on the war crimes inquiry to be held in Paris later this year.

The hosts, the Syrian Bar Association, were generous and welcoming and organised a visit to the Golan Heights, which has been occupied by Israel since the 1967 war. The Syrian town of Quneitra was destroyed in 1974 after the Israelis withdrew from a small band of territory in the Golan. The town has not been rebuilt and is a memorial to Israeli atrocities committed during the course of the wars in 1967 and 1973. It is a sad place with bullet holes. Token UN soldiers police the cease-fire line and after more than thirty years there is no sign of the Israelis having any intention of withdrawing.

It was obvious that lawyers in Syria do not enjoy the same independence that we do in the UK. The Ba’ath regime under Hafiz al Assad dissolved independent associations and replaced them with officially appointed bodies. The Bar is under the supervision of the Ministry of Justice and lawyers cannot join any Arab or international association without the permission for the Bar Association itself. We saw these restrictions on political freedoms for ourselves when talking to young Syrian lawyers who were not able to express their opinions of their government in the presence of others from the Bar Association.

Bashar al-Asad came to power after his father’s death in 2000 and there was hope that there would be political reform. Nothing would do more to encourage such reform than just and effective Israeli-Palestinian and Syrian-Israeli peace accords and a less belligerent US stance towards Syria and Palestine. Unfortunately, George Bush’s statement in Washington after Ariel Sharon’s visit will have done nothing to encourage al-Asad and other Arab leaders. The path towards peace in the region, never mind political reform, looks ever more remote.

Hannah Brooks
Permanent State of Terror
Published by the Campaign Against Criminalising Communities with Index on Censorship;
£4.50; www.cacc.org.uk/book.htm

What exactly is the “War on Terror”? Is it about safety? Is it about preserving democracy? Is it about freedom? Since 11th September 2001 the world has undoubtedly changed, due in large part to the “War on Terror”. The effects are felt not only in Afghanistan and Iraq, but throughout the world, from the most remote mountainous regions to the busiest of urban conurbations.

Permanent State of Terror is a collection of articles and speeches which seek to define the “War on Terror” and its effect on the lives of ordinary people. The book is published by CAM-PACC in association with Index on Censorship. CAM-PACC came into existence in early 2001 as a response to the draconian Terrorism Act 2000. Subsequently, much of its work has been focused on the shock-waves caused by the Anti-Terrorism, Crime and Security Act 2001, most notoriously, the internment of “suspected international terrorists”. As a broad campaigning group, it brings together lawyers, activists, refugee communities and anti-globalisation campaigners to monitor and campaign against, the alarming erosion of civil rights in this country.

The book boasts a hugely impressive cast of writers, academics, journalists, lawyers and activists, including Liz Fekete (Institute of Race Relations), Professor Noam Chomsky, Professor Conor Gearty, Frances Webber, Stephanie Harrison, Liz Davies, Nick Blake QC, John Pilger, Tony Benn, Gareth Pierce, Louise Christian, George Monbiot, Mark Thomas and others. Importantly, the book also includes pieces from individuals who have been on the receiving end of the “War on Terror”.

Many of the articles contained within the book have not been written specifically for this publication, but have been extracted from other books or articles. These, along with the many excellent speeches included in the book provide a wide-ranging and insightful analysis of the many faces of the “War on Terror”.

Whilst the contributors and the contents of the book cover a significantly wide spectrum of issues, there are a number of recurring themes and ideas which emerge from the book. Whether the issue is indefinite detention, Guantanamo Bay, refugee protection, the bombing of Kosovo and Afghanistan, anti-globalisation protests, apartheid in South Africa, the occupation of Palestine or the Kurdish question, what repeatedly surfaces is the fact that the “War in Terror” is ultimately about the brutalisation, the repression and the criminalisation of those people in society who are the most vulnerable. Whether it is British Muslims, asylum seekers fleeing persecution, or Kashmiri and Kurdish villagers, the “War on Terror” sweeps up massive groups of people, and characterises their hopes, needs and rights, as acts of terror.

Permanent State of Terror also highlights one of the main casualties of the “War on Terror”, namely the right to engage in legitimate political dissent. Chomsky, Gearty, Webber and Thomas all draw attention to the manner in which the phrase “terrorist” has been distorted and used to label innocent people involved in legitimate political struggles; people who find themselves in situations where authoritarian governments leave them with a choice between extremist politics and no politics at all. The writers show that this is of course done without any analysis of the legitimacy of the regime which these people seek to challenge.

What the book also underlines is the truly frightening manner in which the multifaceted “War on Terror” is so efficiently co-ordinated. Scratch beneath the surface and see the alliances and connections that exist between what appear to be quite disparate issues. For example, the restriction on legal aid for asylum seekers is, in part, directly linked to the situation in Afghanistan. Having ousted the Taliban “terrorists” in a high profile and moralistic war, the British government now views Afghani asylum seekers as having unfounded cases without the necessary merit to justify legal aid. The reasoning behind this is that they can now return to Afghanistan and live under the protection of the “friendly, non-terrorist” warlords whose continuing torture, rape, pillage, and subjugation of women are necessary tools in the fight against the re-emerging Taliban, and ultimately to fight, you guessed it, the “War on Terror”.

Other important issues such the historical echoes of the current “War on Terror”, the economics of the “War on Terror”, and the insidious spill over of the “War on Terror” which is eroding the civil rights of non-politicised, law-abiding people are all cogently dealt with by various contributors.

Permanent State of Terror succeeds in drawing together many different strands, and produces a coherent, convincing and powerful commentary on the devastating effect that the “War on Terror” is having on innocent communities. It reminds us that fundamental rights are not luxury items which can be jettisoned when the going gets tough, but are there to provide a reminder that everyone, including those suspected of terrorism, is entitled to minimum standards of justice and humanity.

In Zimbabwe, Robert Mugabe’s regime labels certain journalists as terrorists. An article in the state-controlled newspaper The Herald quoted an anonymous government official as saying: “We would like them [the journalists] to know that we agree with President Bush that anyone who in any way finances, harbours or defends terrorists is himself a terrorist. We, too, will not make any difference between terrorists and their friends and supporters”.

With such regimes using the language of the West to defend its own oppressive activities, it is up to countries such as the United States and the United Kingdom to show that the protection of everybody’s human rights, including the right to dissent, is the only way which real security and justice can be achieved. This is the message that crystallises from this excellent book.

Sadat Sayeed
“Anyone battling through this legal system, whether it’s to defend victims of this government’s privatisation policies or their war in Iraq or whatever, should subscribe to Socialist Lawyer. It’s a must-read.”
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