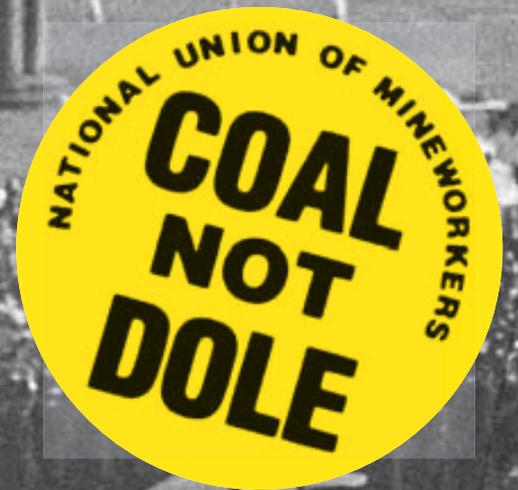


# *Socialist* Lawyer

Magazine of the Haldane Society of Socialist Lawyers ■ Number 52 ● June 2009

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**BLOOD,  
SWEAT  
AND  
TEARS**



**MINERS'  
STRIKE  
1984-85**



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The Haldane Society was founded in 1930. It provides a forum for the discussion and analysis of law and the legal system, both nationally and internationally, from a socialist perspective. It holds frequent public meetings and conducts educational programmes.

The Haldane Society is independent of any political party. Membership comprises lawyers, academics, students and legal workers as well as trade union and labour movement affiliates.

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**HALDANE SOCIETY ANNUAL GENERAL MEETING, OCTOBER 2008**

Students and legal practitioners crowded into the College of Law to hear Mike Mansfield QC, Haldane's President, give us a wide-ranging speech covering issues of climate change, recollections of the miners' strike, and an insight into events at the de Menezes inquest.

We passed motions supporting trade unionists and lawyers in Colombia, supporting Hicham Yezza's fight against deportation and expressing our concern at reports of torture of detainees in Egypt.

The full list of officers and executive members elected for 2008 – 2009 is as follows:

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**Editor:** Kat Craig **Assisted by:** Liz Davies, Declan Owens, Tim Potter and Farah Wise

Many thanks to all our other contributors who have helped with this issue

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# Better to have fought...

**T**wenty-five years ago, the miners' strike was in full swing. The strike was declared on 12th March 1984, after the National Coal Board had announced the closure of five pits. Miners in Yorkshire were already on strike. They were rapidly joined by miners from Scotland, Kent, South Wales and Lancashire. The mining communities in Nottinghamshire were split: some went on strike, others remained at work and set up the scab Union of Democratic Miners. The year-long miners' strike was one of the most significant, and tragic, events in labour movement and Labour Party history. Its implications remain today.

As Michael Seifert, John Hendy QC and David Hopper describe in these pages, the strike was deliberately provoked by Thatcher's government, intent on destroying the mighty National Union of Mineworkers. The grassroots labour movement rose to the challenge. Support for the miners dominated the lives of labour movement activists. Every Saturday, in every town in the country, collectors could be seen rattling tins, wearing 'Coal not Dole' stickers, raising money, and food, from the public. Arthur Scargill, Peter Heathfield and other miners' leaders received standing ovations wherever they spoke. But the equivocation of Neil Kinnock, leader of the Labour Party, and Norman Willis, General Secretary of the TUC, meant that the NUM was isolated. The miners needed other trade unions to come out on strike in solidarity. Had they done so, history would have been different.

The strike saw a level of policing, and of media manipulation, that set a precedent for the next 25 years. The 'battle for Orgreave' was one of the most bloody encounters: Mike Mansfield QC describes the militarised police operation in June 1984. His description of unidentified police officers (concealing their numbers) in snatch squads, using long and short shields and police dogs to attack a peaceful picket, and to 'kettle' the miners, will ring bells with anyone who attended the recent G20 protests. Police roadblocks from 25 years ago will be familiar today to the Fairford protesters, and to protesters outside the DSEi arms fair.

The BBC coverage of Orgreave was shown backwards, so that it appeared as though the miners were attacking the police rather than the other way around, and permitted the Government to portray the miners as mindless thugs. Mike Mansfield writes how independent film-makers at Orgreave recorded the 'battle' and their films exposed the BBC's falsehoods. In 2009, it was only the filming of the police by protesters, independent media and bystanders that revealed that Ian Tomlinson had been brutally attacked by an unidentifiable policeman, tooled up in riot gear.

In the midst of police violence, media hostility and myth-making, a scab union, endless legal wrangling and poverty (striking miners were denied welfare benefits and the NUM's resources were sequestered), it is extraordinary that miners and their supporters can look back to 1984-1985 as one of the best years of their lives. David Hopper, secretary of the Durham Miners' Association and one of the leaders of the strike, says the strike made him a better person. The diversity of support was breathtaking. Women in mining families set



Picture: John Sturrock



up Women Against Pit Closures: the first time a women's group had been set up in solidarity with their striking husbands and family members (women were prohibited from being miners). Some members of WAPC became national figures, travelling the country and speaking to packed meetings. Pragna Patel describes the solidarity shown by black and Asian communities in Southall and elsewhere. Lesbians and Gays Support the Miners led to the miners subsequently supporting the campaign against the homophobic Clause 28. Until then, the received wisdom was that the stalwarts of the labour movement, particularly manual workers such as the miners, would be hostile to liberation movements involving race, sex or sexuality.

The Government's strategy to break the strike included trying to tie up the NUM in court, and using the criminal law to criminalise striking miners. As a result, the miners needed lawyers and Haldane Society members rose to the challenge. John Hendy QC is standing counsel to the NUM. He describes the litigation against the NUM: challenges to the decision not to hold a ballot, injunctions against picketing, receivership, sequestration, and the later false accusations that Scargill and Heathfield were personally corrupt. Michael Seifert's firm was the most high-profile in its support, sending solicitors Louise Christian, Sarah Burton, Jim Nichol, Jane Deighton, Gracia Stephenson, Steve Cottingham and others to Mansfield to provide free representation to miners through a law centre. Plenty of other Haldane Society members were also involved. Courts sat through the night. Despite the tragic circumstances, it was probably the Haldane Society's finest hour in recent years.

The Haldane Society will pay tribute to our comrades, the striking miners, and to our members who provided representation and solidarity, at our summer party on 23rd July (see back page).

● **Liz Davies, chair of the Haldane Society of Socialist Lawyers**  
lizdavies@riseup.net

## Society must back Anwar

**T**hree judges sitting at Edinburgh High Court ruled last July that Glasgow lawyer Aamer Anwar did not commit contempt of court in statements he made following the conviction for 'terrorism' of his client Mohammed Atif Siddique (see *Socialist Lawyer* 50). The Haldane Society believes that the right of lawyers to speak in the sort of terms used by Aamer Anwar is an essential protection both for individuals who find themselves accused of crimes and for society at large. Unfortunately, the Law Society of Scotland has so far failed dismally to stand up for that right. Instead of defending Aamer Anwar, it is conducting an investigation into whether he breached the Solicitors' Code of Conduct. It appears that the Society initiated this investigation without any complaint having been received from the public or the profession. Philip Yelland, director of standards at the Law Society of Scotland, said in February that, 'following the comments from the High Court of Justiciary judges... the Law Society has been carrying out an investigation in accordance with normal procedures'.

The Law Society's handling of Anwar's case is undermining the independence of solicitors in Scotland and the confidence placed in the legal profession by the public, who are entitled to representation by a solicitor who will represent their interests. ■



Thousands marched in support of Gaza, millions identified with the suffering and willingly gave money. The BBC...

## Timid BBC ignored plight of Gaza people

**T**he BBC's stubborn refusal to broadcast an appeal by the Disasters Emergency Committee (DEC) provided a shameful postscript to Israel's murderous assault on Gaza at the end of January. Lay people could be forgiven for thinking that the corporation was precluded from showing the appeal because of some legal restriction perhaps related to its unique position as the UK's public service broadcaster. However the truth is that there is no such limitation. Moreover in the midst of widespread public anger, even the International Development Secretary, Douglas Alexander, was moved to argue that the BBC's bosses should reconsider their decision.

Director general Mark Thompson justified the decision by saying: 'After looking at all of the circumstances, and in particular after seeking advice from senior leaders in BBC Journalism, we concluded that we could not broadcast a free-standing appeal, no matter how carefully constructed, without running the risk of reducing public confidence in the BBC's impartiality in its wider coverage of the story.'

The reality is that the decision regarding the DEC appeal is illustrative of the timidity that has gripped the BBC since 2004 when Lord Hutton published his disgraceful report into the death of the Ministry of Defence scientist Dr David Kelly which largely exonerated the

Government but laid to waste the BBC careers of its director general Greg Dyke and chair Gavin Davies. The BBC is obsessed with avoiding such criticism again by showing that its reporting is 'even-handed'. The BBC was seemingly frightened by the thought that viewers might interpret the broadcast as support for the Palestinians against Israel. The argument is specious on a number of grounds, not least because it insults the intelligence of its audience. Few people will have been in any doubt that the money was intended to relieve the plight of ordinary Palestinians rather than being destined for the coffers of Hamas, the elected government of Gaza.

● **Brian Richardson**

## February

**5:** The Government is accused by a scathing High Court ruling of hiding behind claims of a threat to national security to suppress evidence of torture by the CIA on Binyam Mohamed, a British resident in Guantánamo Bay.

**18:** Three solicitors are suspended for deliberately breaking their code of practice by making £ 32 million in fees from miners' compensation claims. A tribunal ruled that the partners at Raleys in Barnsley, South Yorkshire took a deliberate and calculated risk and showed conduct unbefitting of their profession.

**23:** Lord Carlile, the independent reviewer of anti-terror laws, asks Home Secretary to enable computer hacker Gary McKinnon (who has Asperger's Syndrome) to be prosecuted in the UK rather than face extradition and serve a jail term in the US.

**24:** Israel has paid £1.5 million in damages to the family of James Miller – a British cameraman shot by an Israeli soldier while filming a documentary in Gaza in 2003 – his family accepting the payment saying it was as close to an admission of guilt as they were ever likely to get.

**24:** David Cameron says the sole focus of the Home Office under a Tory government would be to tackle crime, pledging a tougher approach than of David Davis. New Shadow Home Secretary Chris Grayling will not be making civil liberties one of his priorities.



## Claims up before losses

**T**he recession's effects are becoming clear with unemployment rising amidst massive job losses. Companies are also notably declaring cuts in pay and hours, often in agreements with workforces supposedly to limit redundancies.

An employment lawyer will tell you that where an employer reduces an employee's pay, this will almost always be regarded as a fundamental breach of the employment contract, giving the employee the potential option of resigning and claiming unfair

dismissal. Any employment lawyer worthy of the name will go on to tell any prospective claimant however, that the employee almost never gains as much remedy in damages as they would have been paid had they remain in post.

As a result of the introduction of a new procedure, which has latterly been revealed to be more cock-up than conspiracy, The Tribunal Service has this year taken to announcing the figures for new employment claims 12 months after the end of the financial year. (Previously the gap was 'just' six months; and there is no obvious reason why the delay should be more than a few weeks). This means we are a year away from knowing how many additional employment claims there have been in 2008-2009 as a

result of the recession.

But tribunal claims were already on the rise well before the worst of the job losses; and have increased from 115,039 in 2005-2006 to 132,600 in 2006-7 and 189,300 in 2007-8: a rise of sixty per cent in two years, even before the recession took hold.

Minded by the desire to avoid large pay-outs, and assisted by the inflexible statutory dispute resolution procedures (which are being fazed out from 6th April 2009, but which previously rewarded the worst employers by making it more difficult for workers to bring claims), a number of employers have been adopting sharp commercial practices which would seem to operate at the edges of the law.

In February, for example, *The Guardian* named a high-street sports chain, which was seeking to avoid its obligation to consult collectively with its workers on redundancies (a duty which is triggered to different extents depending on the number of job losses), by declaring that each of its stores was a separate business.

Think also of the cleaning company whose head of personnel was contacted in December 2008. 'We have taken a decision and communicated it to all our stores', she told. 'No one is being made redundant.' The caseworker asked the manager concerned to investigate the case of a worker who was sat with them and had just been told she was dismissed. Ten minutes later, the head of personnel rang back. 'You need to explain to her very carefully. We're not sacking her. We've just taken a decision for the time being to reduce her hours to zero.'

**David Renton**

## Boost for 'detention' children's campaign

**E**arlier this year a Congolese family were granted unprecedented compensation by the Home Office for their unlawful detention. The recent case represents a milestone for those campaigning against the harmful effects of detention on children. The family, with a one year old and an eight year old son, were detained for two months at Yarl's Wood Immigration Removal Centre near Bedford. The case resulted in a settlement, with the Home Office admitting that the detention was unlawful, and a payout to the family of £150,000. Thought to be the largest payout of its kind, the case highlights the gross inefficiencies of the UK Border Agency (UKBA) and its failure to protect and safeguard

children's rights. Giving further credence to evidence that detaining children is harmful and damaging, it publicises the shortfalls of the UKBA in failing to follow its own policies.

In 2008 the Government demonstrated its commitment to upholding children's rights with the removal of its immigration reservation on the UN Convention on the Rights of the Child. The Home Office has further affirmed this commitment through the introduction, earlier this year, of a Code of Practice for Keeping Children Safe From Harm. The code applies to staff and contractors of the UKBA and is intended to safeguard children under immigration control, whether in or outside detention. However some vital concerns

have been overlooked. The code does not acknowledge the inherently harmful effects of immigration detention, and is far from transparent with regard to how it is to be implemented and enforced.

Children detained under immigration powers are the only children in the UK who can be detained without any judicial oversight and without committing any crime. They are often taken from their homes during dawn raids, compounding the stress and fear of an already horrific experience. Research shows that children who are detained suffer from anxiety and stress as a direct result of their incarceration. Of the 2,000 or so children detained every year, 40 per cent go on to be released. ■

## March

**24:** Government report to mark the 10th anniversary of the MacPherson report into the death of Stephen Lawrence says that police have fallen short on key areas of reform demanded by the original inquiry; stop-and-search, recruitment and retention of ethnic minority officers.

**25:** Justice Secretary Jack Straw uses his veto powers under the Freedom of Information Act to stop the publication of Cabinet minutes about the invasion of Iraq, on the grounds that it would undermine democratic decision-making!

**9:** Probation service union Napo warns that 2,500 jobs will be lost over the next three years because of budget cuts of between 13 and 25 per cent, which could result in 300,000 extra crimes being committed each year.

**13:** Britain is condemned by a highly critical United Nations report for breaching basic human rights and 'trying to conceal illegal acts' in the so-called 'war on terror' and accuses intelligence officers of interviewing detainees in so-called 'safe houses' in Pakistan where they were being tortured.

**13:** Courts are handing out more prison sentences and fewer cautions to people who illegally carry a knife. Ministry of Justice figures show that the number of people jailed was up from 1,125 to 1,386 in the last three months of 2008 compared with the year before.

## Is Trevor right: the Met no longer 'institutionally racist'?

**T**he chair of the Equality and Human Rights Commission (EHRC), Trevor Phillips, caused a slight media storm in February when he reportedly declared that the Metropolitan Police Service (MPS) were no longer institutionally racist. His comments were made on the eve of the 10th anniversary of the publication of the Stephen Lawrence Inquiry Report and were widely reported as having provided the organisation that had been most damningly criticised in Sir William Macpherson's report, with a clean bill of health.

In actual fact, what Phillips said was far more challenging. For example he specifically stated that he does not believe that 'institutional racism as it was described in the Stephen Lawrence Inquiry Report has been obliterated'. However, it is implausible to suggest that he was simply misquoted or made a slip of the tongue. Phillips is a highly experienced media executive who knows how to capture the headlines with a provocative turn of phrase.

His particular concern is that institutional racism is 'too incendiary' a term to ensure the genuine engagement and commitment to change of the organisations that were targeted by Macpherson's report. Instead of institutional racism therefore, he suggested that 'systemic bias' was a more accurate and helpful

term to describe the challenges that persist. If Phillips's assertions are true, it is surely legitimate to call into question the maturity of those bodies and the continued employment of individuals who either stubbornly refuse, or are incapable of providing, what Macpherson characterised as 'an appropriate and professional service' to all members of society.

There are, however, a number of more fundamental reasons to object to Phillips's assertion. Firstly, it undermines the perspective and activities of the representative bodies for black police officers. The recruitment, retention and promotion of black officers were key recommendations of the Lawrence Report yet, by the end of 2008, the Metropolitan Black Police Association (BPA) was so disillusioned by what it termed a 'hostile atmosphere where racism is allowed to spread' that it took out a series of advertisements which 'actively discouraged' potential black recruits from joining the MPS. This came in the wake of a series of disciplinary and tribunal hearings involving the MPS's two most senior black officers: Commander Ali Dizaei, the national chair of the BPA, and Assistant Commissioner Tarique Ghaffur. The latter ultimately accepted a pay off from the MPS in settlement of his tribunal claim.

Equally significantly, research by, among others, the Runnymede Trust (*The Stephen Lawrence Inquiry 10 Years On*, Nicola



*In 2008 black people were seven times more likely to be stopped and searched than*

Rollock), suggests that on a number of measures the predicament of black civilians is worse than a decade ago. Disproportionate levels of stop and search were identified as one of the "iconic" concerns of black communities at the Stephen Lawrence Inquiry. In turn, a commitment to replacing what was regarded as a blunt instrument with more intelligence-led policing was a principal recommendation and one which was accepted by the Home Office in its subsequent action plan. Yet, in 2008, black people were seven times more likely to be stopped and searched than their white counterparts compared to six times in 1999.

Sadly, this lack of progress is not restricted to the police force. In the wider criminal justice system, black offenders are five times more likely to be imprisoned than those from white communities. Elsewhere in Macpherson's report, educational exclusion and under-achievement were identified as critical concerns among black communities. Consequently the then Department for Education and Employment undertook to drive through change. Yet today black boys are still at least three times more likely to be excluded than their white peers. Moreover, using official statistics, Professor David Gillborn of the University of London's Institute of Education

## March

**16:** Azhar Khan, a 26-year-old British man, alleges he suffered appalling mistreatment in Egypt while being interrogated on the basis of information that, he says, can only have come from the UK. He was handcuffed, feet shackled, naked and had electric shock treatment.

**16:** An internal review has revealed the Met failed to investigate scores of rape allegations because officers did not record them as criminal offences but as crime related incidents, meaning they were not investigated properly.

**18:** New Met commissioner Sir Paul Stephenson leads 80 officers, a helicopter and the media on a dawn raid of a burglary suspect. Shame he'd been arrested the day before by other police officers... while he was briefing his officers the suspect was being booked into custody.

**18:** Sean Hodgson walked free from prison after 27 years in jail when his murder conviction was quashed. The Forensic Science Service wrongly told defence lawyers acting for him in 1998 that exhibits in his inquiry had been destroyed, and wasn't until last March that a new legal firm pushed for a new search.

**20:** Former Health Secretary Patricia Hewitt believes mentally competent adults should be allowed to die and will table an amendment to the Suicide Act. 'We need to change the law to allow [the] terminally ill... suffering at the end of their lives, the choice of an assisted death...'



white people; in 1999 it was six times.

suggested that at current rates of progress, and assuming that the measure of attainment remains the same, it would take until 2054 before black pupils have closed the gap with their white peers (*Racism and Education – Coincidence or Conspiracy*, David Gillborn, published by Routledge). Not surprisingly therefore they are twice as likely to be unemployed than their erstwhile classmates. All of this is despite the introduction of legislation, the Race Relations (Amendment) Act 2000, which was meant to establish a framework for a 'successful multiracial Britain'.

The truth is that institutional racism was not simply a clever

concept dreamt up by a retired judge. Rather it is a term packed with historical resonance amongst black communities and race equality campaigners, and its acknowledgment by Macpherson was fought for and won by a model coalition of forces, led by Doreen and Neville Lawrence who fought tenaciously to expose the truth about the rotten police investigation into their son's murder. Alongside them was a team of dedicated and determined lawyers including Michael Mansfield QC and Imran Khan. Finally during the second part of the inquiry, the wider concerns of black communities were eloquently and passionately presented by community activists and campaigns.

It appears that Phillips has limited support for his views even among his own staff and commissioners. As I write, the EHRC is mired in crisis having suffered three resignations in rapid succession among senior officials and widespread speculation that others may follow. There is a suggestion that Phillips's attitude and closeness to the New Labour Government has been a key contributory factor in this loss of personnel.

Lord Herman Ouseley, Phillips's predecessor as chair of the Commission for Racial Equality, is right to suggest that a timid approach to the enforcement of equality is bound to fail. It was tenacity that forced institutional racism onto the political agenda in 1999. It will require a similar approach rather than the adoption of bureaucratic language and strategies to drive through the change we need.

**Brian Richardson**

## Unison investigates its own activists: what's going on?

Three recent internal investigations in the public sector workers' union Unison have raised complaints of political motivation; in one case, it is alleged that the original complaint was motivated by racism.

In 2007, Tony Staunton, chair of Unison's Plymouth branch, was expelled from the union. He was accused of various breaches of Unison's rules prohibiting political campaigning using union resources. It was said that he had downloaded a leaflet sent out by *Socialist Worker* onto a union computer. Staunton complained of double standards, since Unison regularly loans officers and resources to the Labour Party during elections. Whilst suspended, he was prevented from running for election to the union's national executive committee. The Employment Appeal Tribunal has recently found that his suspension should not have been a bar to running for office (*Unison v Staunton* [2009] UKEAT 0375).

In September 2007, four Unison officers, Brian Debus, Onay Kasab, Glen Kelly and Suzanne Muna, were investigated by the union for producing a leaflet criticising the union conference's standing orders committee. The leaflet likened the members of the committee to the three wise monkeys who neither see nor hear nor speak evil. The four are all members of the Socialist Party (formerly

Militant).

The four Unison officers were originally told that the cartoon was racist. This allegation was later dropped. As of March 2009 however, the four officers are still facing the possibility of sanctions including expulsion from the union.

The case of Newcastle psychiatric nurse, Yunus Bakhsh, is longer-running. Bakhsh is a former candidate for the position of Unison General Secretary. He was elected to Unison's national executive and health service group executive in 2006 with 86 per cent of the vote in the Northern region. He is a member of the Socialist Workers Party, and an advocate of strike action to protect members' jobs. He has criticised Unison's funding of the Labour Party and spoken at meetings in solidarity with countless local disputes. For many years, he has been one of the highest-profile campaigners against racism and fascism in the North East.

In autumn 2006, Bakhsh was joint branch secretary of Unison's North of Tyne health branch and employed by the Northumberland Tyne and Wear NHS Trust. In September 2006, the Trust received an anonymous letter accusing him of intimidating female workers. It started an investigation and invited employees to come forward as witnesses. Three were permitted to give statements anonymously. Those statements ►

**21:** George Galloway MP is refused entry into Canada, deemed 'inadmissible' under section 34(1) of the country's immigration act, which was designed to protect Canadians from people who fund, support or engage in terrorism.

**22:** Parliamentary report published by the Joint Committee on Human Rights says laws intended for counter-terrorism are being misused in an increasingly heavy-handed approach to policing protests.

**22:** Muntazer al-Zaidi – the man who threw his shoe at George W Bush – was handed a three-year prison sentence for his 'crime'. His relatives erupted in anger, shouting that the decision was unjust and unfair. Others were forcibly removed by security forces as they shouted 'down with Bush' and 'long live Iraq'.

**22:** A report, Database State, by the Joseph Rowntree Reform Trust, says that 11 of the 46 biggest public sector database projects are fundamentally flawed and clearly breach European data protection and human rights laws.

**22:** Home Secretary Jacqui Smith announces new 60,000-strong civilian force, including security guards at shopping centres and hotel workers, to tackle terrorism...

# News & Comment

► were not disclosed to Bakhsh in advance of the disciplinary hearing. Bakhsh wrote to management saying that the original letter stereotyped him as an aggressive, black man, and the complaint was motivated by racism. The disciplinary hearing took place in June 2008 in Bakhsh's absence (due to illness). He was dismissed but is appealing the decision.

When Bakhsh was suspended in 2006, his Unison branch had voted unanimously against the suspension at a packed meeting for strike action. Almost immediately, the branch was placed in regional administration, where it remains. It had been one of the most dynamic branches in Unison, but its members have not had a chance to meet in three years. In January 2007, Bakhsh was accused by Unison of bullying union members. He was suspended from all union positions, pending an investigation.

The initial union investigation took place in 2007. The investigating Unison officer wrote to Bakhsh telling him that the nature of the investigation

remained to be decided. 'You are facing no charges', he wrote. Three months later, the union told Bakhsh that he was barred from standing for office. Bakhsh successfully appealed his suspension to the Certification Officer. However, Unison subsequently appealed to the Employment Appeal Tribunal, which has upheld Bakhsh's suspension (Unison v Bakhsh [2009] UKEAT 0375).

Eventually, Bakhsh was expelled from Unison, not for intimidation (the subject of the original complaint against him) but for breaches of the political fund.

In the investigation which led to Bakhsh's expulsion from Unison, both Peter and Kerry Cafferty, who are married to each other, were witnesses. Peter Cafferty is a senior figure in Unison's Northern region and its Labourlink organisation. Both apparently denied that they were motivated by racism.

Over Christmas 2008, a friend introduced Bakhsh to Facebook. There he found Kerry Cafferty's profile. It showed that she had joined groups titled 'England is our country... our rules, don't like it fuck off!!', 'NO MORE! Asylum seekers in Britain', and 'Make Great Britain British again'. Other members of those groups were pictured wearing Nazi paraphernalia or giving Nazi salutes. Some described themselves as members of the British National Party.

Bakhsh also found that from 2005, members of the white supremacist website Stormfront had been discussing him. They had been referring to him as 'this nasty piece of immigrant stock'

and asking for 'dirt' on him. Stormfront members seemed to know all about the allegations against Bakhsh, often in advance of the information having been disclosed to Bakhsh himself.

After Bakhsh published his treatment by Unison, an investigation was ordered into Kerry Cafferty's conduct. She resigned from the union, thus aborting the investigation. Her husband has resigned as regional chair but remains a branch secretary at the Trust, working full-time for Unison.

There is a pattern to this witch-hunt. All the victims are leading activists and critics of the Unison leadership. They are all members of left-wing parties opposed to the Labour Party. The reasons given for Bakhsh's ultimate expulsion from Unison were strikingly similar to the reasons for Tony Staunton's expulsion.

But Bakhsh's case is unique. It is the first time that a leading member of a union has been expelled arising out of allegations made by individuals willing to associate online with supporters of the BNP.

In January, 12 members of Unison's national executive signed a motion calling on the union to withdraw what the signatories described as an 'appeal to the Employment Appeal Tribunal in defence of a suspension which we now know was tainted by racism'. These members of the union's executive also asked Unison to set in motion an independent investigation into Bakhsh's suspension from the union.

Remarkably, the union has not yet agreed to do so. ■



Sight for sore eyes: NUJ photographers

## 'I'm a photo'

**H**undreds of photographers staged a mass 'I'm a Photographer, not a Terrorist' event outside New Scotland Yard on 16th February, to mark the enforcement date of section 76 of the Counter-Terrorism Act 2008. Organised by the National Union of Journalists (NUJ), it aimed to highlight that the new law could be invoked to prevent the media and public from taking pictures of the police. There is growing evidence of restrictions on press freedom in the name of the fight against terrorism, despite the fact that senior police officers have

## Stopping the BNP

As we went to press, activists were campaigning hard to stop the BNP winning seats in the European elections on 4th June, mobilising to ensure the fascists didn't benefit from the disillusionment with main parties caused by the recession and the MPs' scandal. Whatever the results on 4th June, stopping the BNP will be a major task for all socialists and progressives in Britain in the immediate future.

## March

**23:** Justice Secretary Jack Straw outlines new British Bill of Rights and Responsibilities, saying the bill 'could' entrench economic rights and balance the Human Rights Act with responsibility and 'end a me society as opposed to a we society'.

**24:** *The Guardian* newspaper reveals detailed evidence of alleged war crimes committed by Israel during the 23-day offensive earlier this year, involving the use of Palestinian children as human shields and the targeting of medics and hospitals.

**26:** Foreign Secretary David Miliband gave a hint that the long-awaited inquiry into the Iraq war will hear evidence in private when it is set up later this year. He spoke of the 'advantage' of having one like the Franks inquiry (after the Falklands war) which was not a judicial inquiry and was conducted in private.

## April

**1:** Thousands of anti-capitalist and anti-war protesters converged on London's City financial district today to demonstrate ahead of the G20 summit that starts tomorrow.

**2:** Questions are being raised about the police tactics being used in London against G20 demonstrators in the wake of the death of a man caught up in the protests. The man who died was Ian Tomlinson, 47, who lived in the City area and worked at a newsagent. He was on his way home when he collapsed.



## grapher, not a terrorist'

previously recognised that there is no power to do so. The Association of Chief Police Officers (ACPO) media guidelines state that: 'Members of the media have a duty to take photographs and film incidents and we have no legal power or moral responsibility to prevent or restrict what they record. It is a matter for their editors to control what is published or broadcast, not the police. Once images are recorded, we have no power to delete or confiscate them without a court order, even if we think they contain damaging or useful evidence.' However journalists have been increasingly threatened

with detention under anti-terrorism legislation for refusing to reveal sources, and photographers are routinely impeded, harassed and monitored by the police.

Section 76 of the Counter-Terrorism Act 2008, which the Police Federation has called 'badly drafted', provides that eliciting, publishing or communicating information on members of the armed forces, intelligence services and police officers which is 'likely to be useful to a person committing or preparing an act of terrorism' is an offence carrying a maximum 10 year custodial sentence. The broad powers under

the Act would allow an individual to be arrested for taking and publishing a picture of a police officer if the police believe it is 'likely to be useful to a person committing or preparing an act of terrorism'. A defence of 'reasonable excuse' is available, but the onus would of course be on the defendant, and as yet it is unclear what 'excuse' would be accepted by a court.

Journalists fear this law will be used to further target the media, especially those who cover legitimate democratic protest and public order situations. Photographer Jess Hurd recently received an apology from the Kent police for her treatment whilst covering the Climate Camp protest at Kingsnorth last summer. She was stopped and searched on four occasions, had her press card confiscated on the grounds that 'it didn't look authentic', and was followed to a restaurant after photographing a violent arrest and filmed through the window by the police Forward Intelligence Team.

More recently journalists received an apology for the use of section 14 of the Public Order Act at the G20 protests where media were forced under threat of arrest to vacate the area around Bank for 30 minutes. During the demonstrations photographers were violently assaulted.

The NUJ's general secretary, Jeremy Dear, said: 'The police and the Home Office have made repeated promises that officers will be properly trained to deal with photographers at demonstrations but the problems keep on happening.' The NUJ is currently considering legal action against the police. ■

## Trespass law abused by Japanese

In January 2008, Greenpeace Japan commenced an investigation into claims, made by a whistleblower, that crew members of Japan's whaling fleet have for many years been embezzling prime whale meat and selling it for personal gain, with apparent official connivance.

In April last year, Greenpeace investigators removed from a courier depot one of four heavy boxes addressed to a crew member, whose contents were listed as 'cardboard'. Inside, they found 23.5kg of salt-cured unesu or 'whale bacon', valued at up to US\$3,000. The whistleblower's claims were further corroborated through further investigation and interviews. Greenpeace Japan presented its findings at a press conference, and delivered the box of whale meat to the Tokyo District Prosecutor as evidence of an offence. The investigation initiated by the Tokyo District Prosecutor was suddenly dropped on 20th June, and on the same day, the Greenpeace Japan offices and the homes of four staff members were searched by some 40 police officers, in full glare of the media, who had been tipped off. Junichi Sato and Toru Suzuki, two of the Greenpeace investigators, were arrested and held for 26 days, during which they were questioned daily for up to eight hours, strapped to a chair, without access to counsel ►

Picture: Jess Hurd / reportdigital.co.uk

**5:** Police claim that they had no contact with Ian Tomlinson prior to his death on the G20 protest. Yet video footage and photographs by protesters and bystanders has shown that Ian was violently pushed over by police as he tried to walk home through the City on 1st April.

**6:** As more videos and images emerge showing police violence, the officer who violently shoved and hit Ian Tomlinson with a baton has been suspended and has been questioned by the IPCC under caution on suspicion of manslaughter. He is a member of the Territorial Support Group (TSG).

**6:** House of Commons Foreign Affairs Select Committee announce inquiry into Britain's role in human rights abuses, examining involvement in detention, transfer and interrogation of prisoners held during the so-called 'war on terror'.

**6:** House of Commons Foreign Affairs Select Committee announce inquiry into Britain's role in human rights abuses, examining involvement in detention, transfer and interrogation of prisoners held during the so-called 'war on terror'.

**6:** Parents with children up to the age of 16 will be able to request flexible working from today, under a change in the law. Employers are now obliged to 'seriously consider' any application and only reject it if there were 'good business reasons' to do so.

► common practices in Japan, which have drawn repeated criticism from the UN Human Rights Committee. Eventually, both men were charged with larceny of a box of whale meat and trespass, and released subject to strict bail conditions. The trial is expected later this year.

The firm that operates Japan's whaling fleet, claimed that its employees traditionally receive portions of whale meat as 'souvenirs', and meat intercepted by Greenpeace consisted of gifts to several crew members. But the defence team intends to bring a large body of evidence of embezzlement to the attention of the court, including statements from four inside informers, as part of a 'justification' defence to the charges of theft and trespass. They will also argue that the defendants' actions were intended to expose wrongdoing and stir debate about research whaling, and as such, they were an exercise of the right to freedom of expression, which includes freedom to 'seek' and 'receive' information, according to the International Covenant on Civil and Political Rights (ICCPR), the principal UN human rights treaty ratified by Japan. The public interest in allowing NGOs to bring such information to light is greater in this instance than the – also important – interest of safeguarding private property.

Last December, the UN Human Rights Committee criticised the authorities' abuse of trespass laws to stifle criticism of government, and called on Japan to 'repeal any unreasonable restrictions on freedom of expression'. This is a test case.

● **Richard Harvey**

## The Congo: crimes against humanity continue

**W**hilst the world's eyes were peeled on the atrocities in Gaza, in the same week of the initial bombings by Israel in the Gaza Strip at least 189 civilians were massacred in the ongoing civil war in the Democratic Republic of Congo (DRC).

A drop in the ocean perhaps to the estimated four million that have died in this 14 year war in the DRC but no less heinous, traumatic or tragic for the victims

of crimes against humanity perpetuated in this war.

Yet it was with some difficulty that I found any news items on these civilians subject to crimes against humanity in the DRC. Al Jazeera did run a news item, but it seems the rest of the world were happy to remain silent. At the beginning of the year, I was rightly bombarded with emails from NGOs, left-wing groups and colleagues seeking ways to act and prevent further civilian deaths in relation to the Gaza situation.

But I was struck by the complete silence on the civilian deaths in the DRC, at that time a much larger number. Not that this is a numbers game to any victim or relative of the most serious crimes in international law.

I felt disturbed that the deaths of the civilians in the DRC seemed to attract such limited comment. Why the silence from all quarters on such an important issue? The DRC is a huge country, at the heart of Africa. It is a rich country with deposits, many of which we continue to use on a daily basis, whose limits we can only guess at. A country over 10 times larger than Great Britain. A country that was hacked to pieces by King Leopold and now by those that

## Binayak Sen: prisoner of conscience

**B**inayak Sen is an award-winning paediatrician and human rights activist. He has also spent two years in jail in the central Indian state of Chhattisgarh, awaiting trial on charges that are widely regarded as trumped up and politically motivated. Noam Chomsky, former US Attorney-General Ramsey Clark, 22 Nobel laureates and the former Supreme Court Justice of India Krishna Iyer, are amongst thousands who have called for his release.

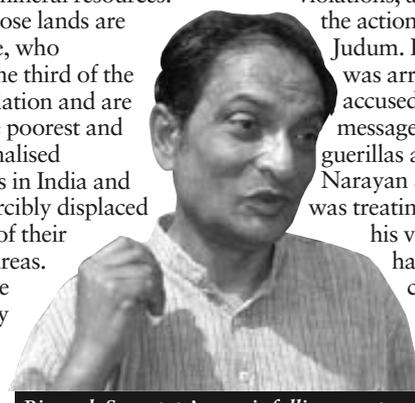
59-year-old Dr Sen and his wife are doctors who turned away from lucrative private practices to help some of the poorest rural communities in India. In the 1980s, they worked with the Chhattisgarh mineworkers to set up a workers' hospital. More

recently, they worked with the tribal people of Chhattisgarh, running a weekly clinic providing low-cost medical care, and training local tribal youths to become health workers.

Chhattisgarh state is rich in forests and mineral resources. Living on those lands are tribal people, who constitute one third of the state's population and are amongst the poorest and most marginalised communities in India and are being forcibly displaced from many of their traditional areas. Protests have been brutally suppressed and since 2005, the state

government's private militia, the Salwa Judum, have operated with impunity and violence, resulting in many civilian deaths.

Dr Sen, as secretary of the Peoples' Union for Civil Liberties, was documenting human rights violations, and specifically the actions of the Salwa Judum. In May 2007, he was arrested and accused of conveying messages between guerrillas and a prisoner, Narayan Sanyal, whom he was treating in jail. Each of his visits to Sanyal had been conducted under the prison's scrutiny. When he learned of the warrant for his arrest,



*Binayak Sen: state's case is falling apart*

## April

**6:** Internet service providers must keep records of emails and online phone calls under new EC regulations that came into force today. ISPs will be legally obliged to store details for 12 months as a potential tool to aid criminal investigations.

**13:** Two hundred police officers raid dozens of homes across the UK arresting 114 people thought to be preparing a climate change protest at the Ratcliffe-on-Soar power station in Notts, yet all were released on bail but with no charges.

**17:** Home Secretary Jacqui Smith announces review of the Regulation of Investigatory Powers (Ripa) in order to stop 'trivial' use of anti-terror and serious crime powers by councils who have been using them in cases such as dog fouling, litter and stealing Christmas lights.

**20:** Hundreds of police documents from the investigation into the Hillsborough disaster of 1989 could finally be made public after a 20-year campaign for justice. The families of the 96 Liverpool fans who died believe the police conspired to cover up their role on the day.

**25:** Matilda Gifford exposes undercover police running a network of hundreds of informants inside protest organisations, recording hours of discussions with Strathclyde police who had attempted to recruit her after she was released on bail after a Plane Stupid demo in Aberdeen.

support that scramble for its sumptuous resources. A country full of people who deserve the protection of international law, media interest and NGO interest no less than any other place in the world.

The war and deaths in the DRC continue. There is the occasional media comment but little else. No emails, campaigns or calls for an end to crimes against humanity or perhaps for us to just stop buying the resources that help fuel the war there. There have however been a number of articles in the mainstream press about the endangered elephants affected by the war in that region.

● **Rebekah Wilson**

Dr Sen voluntarily returned from a visit to Kolkata in order to clear his name. He was arrested under Chhattisgarh's Special Public Security Act (draconian anti-terrorism laws) and denied bail.

After two years, the state's case against Dr Sen is falling apart. Several prosecution witnesses have been dropped, or been declared 'hostile' by the prosecution. None of the remaining witnesses have been able to corroborate any of the charges against him. Despite the lack of evidence, he remains in prison. Despite suffering from heart disease, he is denied the specialist medical treatment that has been recommended.

He has been adopted as a prisoner of conscience by Amnesty International, which believes that the charges against him are unfounded and who call for his immediate release. ■ See [www.freebinayaksen.org](http://www.freebinayaksen.org)

## DNA samples of innocent people should not be kept

**W**idespread concern over the powers contained in section 64 Police and Criminal Evidence Act 1984 (PACE) finally received judicial recognition with the decision of the European Court of Human Rights in December 2008 of *S & Marper v UK*. Section 64 PACE enables the police to retain bodily samples, DNA profiles and fingerprints from anyone arrested for a recordable offence, whether or not they are charged, prosecuted or convicted.

The decision established that the automatic retention of DNA samples, profiles and fingerprints from those who are not convicted of any offence is a breach of the right to a private life under Article 8 of the European Convention on Human Rights. The court further commented that the powers of retention were 'blanket and indiscriminate' in that samples could be retained from persons suspected of trivial offences as well as of serious ones and did not discriminate between the convicted and the unconvicted.

Since then the Government has tried to find ways of avoiding implementing the decision. Government had stated that DNA profiles and samples of the 850,000 innocent people currently on the database should remain there for between six and 12 years. Jacqui Smith told *The Observer* in May that there were genuine concerns over the size

and scope of the DNA database. 'It is crucial that we do everything we can to keep the public safe from crime and bring offenders to justice,' she said. 'The DNA database plays a vital role in helping us do that. However, there has to be a balance between the need to protect the public and respecting their rights. Based on risks versus benefits, our view is that we can now destroy all samples.' Yet four days later the Home Office published proposals to retain DNA records for up to 12 years. The database is to include samples taken from children aged 10 or over, who may have been arrested but never prosecuted. Liberty's Shami Chakrabarti said: 'Wholly innocent people – including children – will have their most intimate details stockpiled for years on a database that will remain massively out of step with the rest of the world.'

We already know from government figures that stop and search powers are disproportionately used to target black and Asian communities. There is now growing evidence that police powers of arrest, particularly the wide-ranging powers under anti-terrorism legislation, are also regularly abused. People are frequently arrested as a result of bad policing or malicious complaints by members of the public. These proposals fundamentally undermine the presumption of innocence, and should be revised or face challenges in the courts. ■

## Anna backs accused Brit

**A**nna Morris, a barrister and Vice Chair of the Haldane Society, is acting on behalf of the human rights charity Reprieve, to represent Samantha Orobator, imprisoned in Laos and accused of heroin smuggling.

Samantha, 20, from Camberwell, may face trial in Laos without ever having met the Laotian court-appointed lawyer. The government there has told Britain's Foreign Office that it will not invoke the death penalty. They agreed to this only after Anna pointed out to them that their own law forbids executing a person who is 'in a state of pregnancy'.

Meanwhile, the Haldane Society has asked the Foreign Office to raise with the Laotian foreign minister the fact that his government, which originally gave assurances that Anna would be allowed to visit Samantha, now refuses to allow the visit. We want firm undertakings that Anna will be allowed to visit with Samantha and that all her rights under the International Covenant on Civil and Political Rights will be guaranteed, including: adequate time and facilities to consult with her court-appointed lawyer; to prepare her defence; to call and examine any witnesses required and to receive all appropriate medical treatment. In the event Ms Orobator is convicted she should be permitted to serve her sentence back in Britain. ■

**25:** Justice Secretary Jack Straw scraps plans to build three 2,500-place Titan prisons, instead securing backing for five proposed privately-run 'super-size' prisons to hold 1,500 prisoners, although the Prison Governors' Association said these were still 'too big'.

**27:** Anti-nuclear protesters in Scotland revealed that police had offered them money for information, one being offered cash on top of his jobseeker's allowance (benefit fraud!) if in return he game military police the names of people planning environmental action.

**27:** Sir Mark Potter, President of the Family Division of the High Court, says allowing the media to report legal cases involving adoption, care proceedings and divorce will transform the long-established culture of privacy in the family courts but critics say the access is still too restrictive.

**29:** Three men facing charges of helping plan the 7th July bombings that killed people in London in 2005 were acquitted at Kingston Crown Court. Despite a £100 million police investigation (the biggest in modern times) police now have no fresh lines of inquiry.

**30:** Five people assaulted by police officers, at a peaceful rally outside the Mexican embassy in London in 2006, and kept in custody for two nights have been paid tens of thousands of pounds in an out-of-court settlement, amidst calls for the officers involved to be investigated.

## Drastic changes in legal aid funding

The Legal Services Commission's recent consultation, *Family Legal Aid Funding from 2010*, considers the likely impact of the Government's proposals in this area. Young Legal Aid Lawyers (YLAL) was one of the 'interested stakeholders' to respond. YLAL set out its concern for the future sustainability of quality legal advice and representation in family law and the consequences of the changes for those working at the junior end of the family legal aid system. The consultation sets out three main proposed changes. These, alongside YLAL's response, are:

### Private Family Law Representation Scheme

The first proposal is the introduction of the Private Family Law Representation Scheme (PLFRS); a scheme of fixed fees which will apply to the majority of private children cases, finance cases and domestic violence proceedings. The scheme constitutes part of the second major phase in the LSC's reform to family legal aid funding and proposes fixed fees for work undertaken following the issue of proceedings and up to the final hearing. The first stage, the introduction of fixed fees in care and supervision proceedings and fixed fees in private family cases up to the issue of proceedings,

was introduced in October 2007. There is a third and final stage scheduled by the LSC for implementation in 2013, in the form of Best Value Tendering, which is to be applied to many other areas across the civil legal aid budget.

YLAL is concerned that the fees proposed under the PLFRS are unrealistically low in value and that the mechanisms by which they will operate will be too rigid. There are a raft of specific provisions which will render it difficult for solicitors to be fairly remunerated for the volume and complexity of work actually undertaken on family cases. As income from family legal aid work inevitably decreases, YLAL anticipates that firms will be forced to reduce the amount of time they engage on legal aid cases, or that they may delegate the work to more junior fee-earners, such as trainee solicitors or paralegals, who may not have the necessary experience and/or degree of supervision to undertake the work. Those at the junior end may well experience increased workloads and pressure at work.

Of greater concern is the impact these changes will have on family clients, who will inevitably be facing difficult personal circumstances. Many will be feeling emotionally, or indeed physically, vulnerable. These clients are particularly in need of



Firms will be forced to reduce the amount of time spent on legal aid cases.

good quality legal advice and representation if they are to understand the implications of what will often be important decisions relating to their future and/or that of their children.

### Family Advocacy Scheme

The second element of the scheme is the introduction of a new Family Advocacy Scheme (FAS) to replace the former Family Graduated Fee Scheme under which family barristers were paid and which will apply to both solicitors and self-employed advocates. YLAL considers that the advocacy fees proposed under the FAS are also extremely low and we anticipate that they too will be extremely rigid in their operation. By way of example,

the LSC proposes that family advocates be remunerated for advocacy on a 'per hearing' basis, irrespective of the length of the hearing or the complexity of the preparation required. There are provisions within the FAS which YLAL says will unfairly penalise those who have made a commitment to undertake family advocacy, such as payment of 'tapered fees' if the number of hearings listed exceeds an average number, something that will often be due to circumstances beyond the control of advocates.

### Changes to Scope

The third tenet of the proposals is a reduction to the scope of the family disbursements that the LSC is prepared to fund. YLAL

## May

**1:** Ministry of Justice figures reveal that the use of stop-and-search under section 44 of the counter-terror legislation soared from 37,197 people searched in 2006-07 to 117,278 in 2007-08. The number of black people stopped rose by 322 percent, Asian people by 277 per cent.

**6:** United Nations inquiry accused the Israeli military of negligence or recklessness in its conduct of the war in Gaza in January and said the UN should press for reparations for deaths and damage.

**7:** Lawyers acting for young twins 'stopped and searched' at the Kingsnorth demo last August were granted permission, in the High Court, to challenge police powers after judges ruled the proper policing of large demos was in the public interest.

**7:** The Government is to outlaw the use by companies of covert blacklists that have prevented trade unionists from getting work. Business Secretary Lord Mandelson has been forced to act after a watchdog exposed widespread blacklisting in the construction industry.

**11:** Research by mental health charity Mind shows that 60 percent of respondents to a survey did not feel they were taken seriously when they reported a crime. In two cases this year the CPS and the police have been forced to apologise for not taking offences seriously.

# Young Legal Aid Lawyers

This regular column is written by Laura Janes of YLAL. If you are interested in joining or supporting their work, please visit their website [www.younglegalaidlawyers.org](http://www.younglegalaidlawyers.org)



## Why can't Jack Straw see: we need more than sticking plasters

**R**ecessions are a major cost driver for legal aid. This has been recognised by Government. Despite the 'no more money in the pot' mantra, an extra £10 million has been found for Citizens Advice Bureaux, alongside the establishment of various duty schemes in the county courts to deal with housing repossessions. But this is simply more sticking plaster to a festering wound: the real problem is that ordinary solicitors with the expertise to help ordinary people keep their homes and manage their debt, are simply unable to survive the devastating changes to the legal aid scheme. Since 2003, the number of firms providing housing law services under the scheme has dropped from 799 to 362.

Tokenistic injections of cash will not help the masses of vulnerable people in all walks of life who have snowballing unmet legal need, and who find it especially hard to access services.

The latest Government statistics show that 40 per cent of unemployed people are under 25 years old. Research by the Legal Services Commission's research centre and Youth Access shows that young people are more likely to experience high levels of unmet legal need but are considerably less likely to obtain

professional advice than other age groups (Young People and Civil Justice, LSRC and Youth Access, 2007).

Another group set to fall foul of the LSC's next plans are prisoners. A recent prison law consultation decried an increase of on average £7 million a year for prison law since 2001, and prompted comments from the Conservatives that the 'colossal increase' in legal aid for prisoners was 'inevitably at the expense of assistance for law-abiding people, who need greater legal protection at a time of recession'.

This is despite the fact that the cost of incarcerating 80,000 odd prisoners a year is more than one and half times the whole legal aid budget and that prisoners are likely to represent some of the most damaged in our society, with the most unmet legal need. In times of recession the Government would do well to consider the longer term social and economic cost of depriving prisoners of good quality advice – both due to social welfare problems and the cost of re-incarceration given the recidivism rates.

Meanwhile, new entrants are finding it harder than ever to get training contracts at legal aid firms who are unsure as to their future and do not have the time and resources to provide training. This is in line with Jack

Straw's warnings that firms should be relying more heavily on paralegals. In a speech in March this year Straw drew an analogy with opticians services, largely provided by high street chains, 'which benefit from substantial economies of scale, which in turn are passed on to the customer [...] The important factor here is that there has been no decline in the quality of the clinical service'. Unfortunately for Mr Straw *Which* consumer magazine recently sent undercover researchers into a number of these providers: over 50 per cent offered unsatisfactory advice. Clinics were underestimating the risks of treatment and pressuring customers into expensive options (I found all this in a small article on page 19 of *The Times*, 26th March).

As Government prepares to celebrate 60 years of legal aid this year, it would do well to remember that it needs to invest in its future if it is serious about dealing with the current economic conditions and looking after the longer term interests of the nation.

● **Laura Janes**

For more information about YLAL and also to see YLAL's full response and covering letter to the LSC consultation (see article left) please visit: [www.younglegalaidlawyers.org](http://www.younglegalaidlawyers.org)

considers that these reductions, combined with elements of the proposed PFLRS and FAS schemes, are likely to lead to some of the most vulnerable groups of people experiencing difficulty in accessing the justice they require. For example, the removal of independent social work from the scope of LSC funding in Rule 9.5 cases, and the inclusion of Rule 9.5 cases within the PLFRS scheme, are likely to have serious implications for children in family proceedings; both in terms of the quality of advice that they or those representing them receive, and their ability to have their wishes and feelings sufficiently represented throughout the case.

● **Jenny Bond**

**15:** Independent Police Complaints Commission announces new inquiry into 'media handling' by the Met and the City of London police over the death of Ian Tomlinson, after his family complained about information released by the police.

**16:** Foreign Secretary David Miliband demands a 'gagging order' to stop High Court judges from disclosing information about what Britain's security and intelligence agencies knew about the torture Binyam Mohamed received from the CIA at Guantánamo Bay.

**16:** Victory for campaigners as Justice Secretary Jack Straw drops plans that would have seen parts of inquests with 'national security implications' held in private, without a jury. Shami Chakrabarti described it as a 'sane and humble climbdown'.

**16:** US President Barack Obama confirms he is to continue to try Guantánamo detainees under the widely discredited military tribunal system set up by George W Bush, although he claims reforms will make the system 'fairer'.

**19:** British soldiers must be protected by European human rights laws, wherever they are deployed, even in battle – a Appeal Court ruling by three senior judges said, rejecting claims by the Ministry of Defence that a soldier could be protected by the HRA only when he/she is on a military base.

Haldane's new pamphlet on Turkey was launched in February. **Rachel Bird** reports...



# IS TURKEY READY TO PLAY BALL?

*Above: speakers Margaret Owen, Michael Ivers, Lord Rea, Bill Bowring and John Hobson at the launch of the report of the delegation to Turkey.*

The Haldane Society of Socialist Lawyers launched their latest publication in the House of Lords on 24th February. The event, hosted and chaired by Lord Rea, introduced the report that came out of a delegation organised by Haldane on the initiative of CAMPACC in February 2008, to investigate whether Turkey is implementing its EU accession commitments on prison reform and conditions of detention.

The delegation met with authoritative non-governmental organisations, representatives of the main political parties, practising lawyers, former prisoners and families of prisoners. Professor Bill Bowring, one of the delegates, and the International Secretary of Haldane, spoke of his admiration for the work and courage of the Turkish Progressive Lawyers Association (CHD). CHD is Haldane's sister organisation in Turkey, and with Haldane a member of the European Lawyers for Democracy and Human Rights, of which Bill is President. The delegation met CHD lawyers – including the lawyers for Ocalan – in Istanbul and Ankara.

The delegation concluded that Turkey's rat-

ification of international instruments, its desire to achieve accession to the European Union, and the appearance of reform, are all consistently undermined by actual practice and recommends 29 practical steps by which Turkey could achieve compliance with international law.

Bill outlined Turkey's refusal to recognise the existence of Kurds or the Kurdish language in Turkey, and its continued failure to ratify the European Languages Charter. He also reported that the delegation were especially shocked by the effect of amendments to Article 151 of the Criminal Procedural Code on lawyers seeking to represent their client, effectively interfering with the right to legally qualified defence.

Barrister Michael Ivers spoke on behalf of Mark Muller QC – who was unavoidably detained – on the conditions of detention of Mr Abdullah Ocalan. His continuing imprisonment as the sole inmate of Imrali – with no privacy and access to visitors, including his legal team, severely restricted – does not come near basic legal norms and raises serious issues on Turkey's accession to the EU.

Margaret Owen, Director of Widows for Peace through Democracy, felt that Turkey

had not progressed at all and, if anything, things had got worse for women. In a patriarchal society women are frightened to speak out about their experiences, especially in regard to sexual torture and rape. Both Kurdish and Turkish women suffer from abuse and violence but Kurdish women suffer in many more ways as outlined in the report. Though women are not held in F-type prisons, there is anecdotal evidence that women are being forced to act as prostitutes in prison as well as being verbally threatened, raped and subject to other forms of abuse that leave no evidence. She emphasised the need for further documentation of the situation.

Delegate and Haldane executive member, John Hobson, spoke on the question of isolation in F-type prisons in which detainees are held in isolation or in groups of three. The F-type prisons were designed with the specific aim of weakening association between individuals and it is widely accepted that the attendant effects in themselves may constitute human rights violations. It is of concern that other than disputes governing the level of association afforded to prisoners, the European Committee for the Prevention of Torture and



## Haldane provides legal support on Kurdish demo

On Sunday 15th February members of the Haldane Society and Kurdish community attended a training session run by Shamik Dutta of Fisher Meredith and Haldane's Kat Craig of Christian Khan at the Kurdish Community Centre (KCC) in North London. Haldane was approached by members of the KCC over fears of oppressive police action in relation to the demonstration organised to mark the 10th anniversary of the arrest of Abdullah Ocalan, leader of the Kurdistan Workers Party (PKK), who was abducted from Kenya in 1999. Since this time Ocalan, who is widely recognised as the voice of the Kurdish people struggling for their cultural and political rights in Turkey, has been held in Imrali Prison off the West Coast of Turkey. Serious concerns have been raised about widespread human rights abuses inside the prison.

Haldane also provided legal observers on the demonstration, monitoring the actions of the police and showing support for and solidarity with Kurdish people and their right to demonstrate. The Kurdish community is justifiably anxious about any perceived support for the PKK, a proscribed organisation, after a number of Kurds and an Irish human rights activist were charged in 2001 and detained for years in Belmarsh pre-trial for campaigning for Kurdish rights.

Haldane is developing a list of members and supporters keen to help out as legal observers in the future. Training will be provided on each occasion and no prior experience or knowledge of public or police law is required. Please contact Kezia Tobin for more information: kezia.tobin@gmail.com

Inhuman or Degrading Treatment or Punishment has indicated that F-type prisons may otherwise be seen as models of modern penitentiary establishments. Further research into the impacts of the prisons on individuals is needed but it is unlikely that Turkey would welcome such research.

Questions and comments related to how Turkey is caught between the requirements of the EU and the demands of its people, the army and the Islamists in the country. For those who are concerned over the efficacy of Europe's intervention in Turkey's progress, consideration should be given to the fact that, without the intervention of the European Court of Human Rights, Abdullah Ocalan would in all probability be dead by now. It was also noted that Turkey lifted whole passages from the UK's anti-terror legislation for its own laws, and that Turkey cannot be discussed without reference to the global situation. Lord Rea will table a written question inquiring as to what the UK Government is doing in response to these issues. ■

Rachel Bird is a member of the Peace in Kurdistan Campaign



To obtain a copy of the 'Conditions of detention in Turkey: Blocking admission to the EU' contact [www.haldane.org](http://www.haldane.org), [admin@haldane.org](mailto:admin@haldane.org) or write to the Haldane Society at PO Box 57066 London EC1P 1AF.

Pictures: Jess Hurd / reportdigital.co.uk

# BLOOD, SWEAT

## THE MINERS' STRIKE 1984-85

**For a year  
the miners fought  
to defend their jobs  
and communities.  
They fought the might  
of the British state.  
Their struggle inspired  
millions...**



**Pictures by John Sturrock**

# AT AND TEARS

The miners stood silently in line in the snow. The early morning mist of a grey winter's day gradually rolled back to reveal a senior police officer, all in white, with coal black eyes, a long red Pinocchio pointed nose, glistening police buttons and pips and a flat inspector's cap. A snowman neatly modelled upon the figure of a self-possessed Chief Supt whose normal practice was to inspect his troops as if it were the parade ground at Sandhurst. As usual he arrived in his immaculate police Range Rover and wasted no time in demanding the immediate removal of the offending snow-statue. Not a single muscle moved. After repeated demands had fallen upon deaf ears he decided that it was time to close the show. He would do it himself and teach everyone a lesson. He mounted his four wheeled stallion, revved up the engine, and charged. Still no one moved because they all knew something he didn't. The snowman had been carefully constructed around a concrete bollard! It is not clear how the Chief Supt managed to explain the vertical indentation running from bonnet to bumper and rendering the Range Rover immobile.

An apocryphal story from 1984 and an allegory for the might of the state against a solid mining community. This solidarity would have succeeded had it not been for a fatal lack of support from elements within the TUC and Labour Party leadership. The strike was not about pay and conditions, nor was it about some fantasy from the fevered brow of Arthur Scargill as the tabloids would have it. Instead it was a struggle for the very survival and fabric of ordinary decent communities. For the Tories however this was a clearly planned confrontation between capital and organised labour, a necessary precondition for the establishment and supremacy of a *laissez-faire* economy. The Ridley report, commissioned by Margaret Thatcher and drawn up by MP Nicholas Ridley whilst in opposition, was a plan to combat enemies of the next Tory government. Those enemies were identified as arising within the coal industry and the unions.

The report therefore recommended importing coal and building up stocks, encouraging the recruitment of non union drivers to shift these stocks, cutting off social security to strikers and most significantly the establishment of mobile police squads to counter picketing.

The years between 1984 and now have witnessed the untrammelled and unashamed excesses of asset stripping, corporate greed, bonus culture, all developed on the back of a shadow economy. Basically take the money and run. Predictably the repercussions of this meltdown will be felt most acutely by the very same communities who took a stand in 1984, and once again there has to be a collective movement which grasps the opportunity to re-evaluate the needs and priorities in the context of a fragile environment and a threatened planet.

It was with this in mind that the People's Charter was launched at the House of Commons on Wednesday 11th March 2009. Members of the Haldane Society, as they did during the miners strike, played a prominent role in this initiative. The aims of the charter



by  
**Michael  
Mansfield**

are simple, to create a movement with over one million people in the United Kingdom signing up to six key principles: 'a fair and just Britain; a future without war; more and better jobs; decent homes for all; improved public services and a fairer economy for a fairer Britain'.

It has been obvious for some time that the credibility gap between government and people has been widening to almost cavernous proportions. Alienation and political exclusion is felt across the board, especially amongst the younger generations who find far more inspiration and vision from the manifold activities of single issue pressure groups. These effective forces must be harnessed and co-ordinated to bring about change.

The mobile police squads and new style public order policing tactics were tested

during the strike. The legacy can be traced through the Wapping dispute, the poll tax protests, anti-war demonstrations right through to the recent G20 protest in London.

Monday 18th June 1984 was probably the high point and crucible for the whole dispute and has been indelibly etched on the minds of all those who experienced it. The miners suffered terrible physical injuries as well as long-term irremediable psychological damage. A graphic and compelling account of what happened on the day can be found in Yvette Vanson's documentary, *The Battle for Orgreave*, shown on Channel 4 in 1986 and now held in the archives of the British Film Institute. The media at the time unremittingly depicted the miners as violent mindless pickets hell-bent on riot. And this was the charge brought against many of them at Sheffield Crown Court before the aptly named HHJ Cole. Needless to say nothing could have been further from the truth which was established during the trial when the prosecution case was torn to shreds and collapsed after 48 days. A blow by blow account was recorded by a defendant I represented, Bernard Jackson. He was a 43-year-old craftsman miner and President of Wath Main NUM. His book, co-authored with Tony Wardle, is also entitled *The Battle for Orgreave*.

The battle itself was incredibly one-sided. The police had arrived in large numbers. There were long shield units; short shield units including snatch squads; riot squads (some of whose overalls had no identifying number as at the G20 demo); mounted police some of whom had long staves and police dogs. They had a plan, currently described as corralling or kettling, to surround the protesting miners by herding them into a field above and beyond the Orgreave coking plant. At the bottom of the field, slowly moving up would be lines of long shield officers. On the right-hand side was a road along which mounted police could swiftly be deployed, and to the left was a field in which more mounted police together with dogs had been positioned. The top of the field was bounded by a deep railway cutting which made any escape extremely dangerous. The rest is history.

But it wasn't just on the battlefield that new tactics were being practised. Roadblocks were set up in Yorkshire, Nottinghamshire and as far afield as Kent in order to prevent the free movement of protesters. What happened at these roadblocks was often unlawful. One occasion was captured by Yvette and her film crew when compiling another ▶

► documentary called *Taking Liberties*. They were on their way to film a picket line in Nottinghamshire. The police who stopped them could not make up their minds about the basis upon which they had made the stop. Running out of ideas they finally ordered the film crew to turn around, threatening that if they failed to do so they would be arrested for obstructing the police in the course of their duty! Almost a complete replica of this situation was experienced by protesters travelling to Fairford airbase in relation to the war in Iraq. They were stopped en route, imprisoned in their coaches, and escorted back to London by a posse of police motorcycles. This too was unlawful as found eventually by the House of Lords. It too was captured on film and by sheer coincidence is the opening sequence of another documentary entitled *Taking Liberties* produced by another independent company – Revolver.

These films provide an important public service by exposing malpractice but at the same time there is an equally important point about the necessity for recording malpractice. One of the most significant ways in which we were able to undermine the prosecution case in the Orgreave trial derived from the critically useful material collated by an independent observer group in Sheffield called *Police Watch* and from a multitude of photographic material assembled by professional photographers, independent observers and protesters. The most dramatic example of this was a miner with a video camera who had secreted himself up a tree and was unseen by police below. He was able to record an utterly disgraceful arrest, in which a snatch squad of three short shield officers targeted a perfectly innocent miner, pinned him to the ground and then dragged him towards police lines by means of an arm lock round his head and neck.

After this I helped establish with a number of other lawyers an ad hoc legal observers group – LOG. This was used during the Wapping dispute. Lawyers identified by fluorescent bibs and the acronym LOG would accompany marches, demonstrations and meetings in order to monitor incidents. They would operate in pairs, one watching and making a mental note in preparation for any subsequent report, and the other carrying a means of record either a note pad and pen or a camera. It is clear that it was the production of film and photographic material in relation to G20 which has led to a Parliamentary inquiry and a criminal investigation.

There needs to be therefore an immediate reappraisal of the new offence created by section 76 of the Counter-Terrorism Act which criminalises ‘eliciting, publishing or communicating information on members of the Armed Forces, intelligence services and police officers which could be useful to someone committing or preparing an act of terrorism’. Given potentially what is embraced by the breadth of this section and the fact that there does not have to be any intention to promote or assist terrorism, the mind boggles about how this ever slipped by our beloved democratic representatives.

● **Mike Mansfield QC**



# The Tories wanted to smash the NUM

by **Davey Hopper**

**T**he 1984/5 miners' strike played a very significant role in my life because when it started I was the union Secretary at one of the biggest collieries in Britain, Wearmouth Colliery in Sunderland, which at that time employed nearly 3,000 men.

The strike was really inevitable: the Thatcher government had prepared for a number of years a strategy to take on the National Union of Mineworkers (NUM) because the Tories had to smash organised labour in order to bring in the free market economy they so desired. Unions had to be seriously weakened in order to drive down wage costs for the UK to compete on a global scale, and obviously, as the NUM was at the forefront of the trade union movement in Britain, it was the major target.

The dispute was not merely an industrial



NUM  
president  
Arthur  
Scargill at a  
mass picket

Labour Party not to support the miners. Both Norman Willis, the General Secretary of the TUC, and Neil Kinnock, the leader of the Labour Party, played thoroughly dishonourable roles during the dispute. Kinnock never appeared on a picket line until the strike was nearly finished, despite being a Member of Parliament for a Welsh mining constituency, and it would only have taken a call from Willis to levy the millions of members of the TUC to force Thatcher to the negotiating table. Alas, this did not happen.

Despite the actions of these so-called leaders of the working class, there was a tremendous amount of working class support for the miners and a lot of trade unions risked the wrath of the law by lending money to the NUM when our funds were sequestered.

In hindsight it is obvious now that the miners would never have been allowed to win this battle. The whole state system was to be used against the miners, really commencing in June at the Orgreave coking plant where thousands of police were used in a paramilitary fashion to charge and beat picketing miners. Horses, dogs, truncheons, shields and real vicious brute force were thrown at defenceless miners, the whole incident filmed by the media. Yet not one police officer was ever charged with violence. Could this have been because the BBC television coverage showed miners throwing stones at the police lines on the six o'clock news, when in reality, as the BBC admitted a number of years later, they inadvertently got the footage wrong? It was really the mounted police who made the first charge in to the pickets. Surely this was state control that would have been fully approved by any dictatorship or eastern bloc regime?

The attacks on the miners continued, the pickets were arrested on all manner of trumped up charges, with magistrates then used to put severe restraining orders on these pickets. Many were jailed using archaic and obsolete laws and charges. The mining communities and villages were under police siege, a ring of steel was put around the county of Nottingham to stop pickets getting to their fellow miners to seek their support. There was phone tapping, surveillance, intimidation. The state used every conceivable method, some strictly illegal, to defeat the miners.

The manipulation of the press was also a disgrace, with false tales of Libyan and Russian money supposedly being sent to Scargill and the issue of not holding a national strike ballot being raised time and again. This latter point was a complete red herring: in 1977 the NUM had held two national ballots on the introduction of incentive schemes, both rejecting the introduction of these divisive schemes. When a right wing area challenged the validity of these national ballots to overrule area decisions approved by the NEC, Mr Justice Watkins ruled on 21st December 1977 that 'the result of a ballot, nationally conducted, is not binding on the National Executive Committee in using its powers'. If this was so, what use would a national strike ballot have been if areas were able to ignore it? But in a case brought by a strike breaker against the Durham Mechanics, Kenneth



Jones J held on 12th November 1984 that the area strike called precisely in accordance with area rules and approved by the NEC was not lawful because it was part of a national strike which required a national ballot!

However, despite all of these and many other fabrications, the vast majority of British miners held firm in their resolve to fight for the future of their industry, their communities and families.

This fight has proven to be right, because here today even the Tories are agreed we as a nation need to utilise the millions of tonnes of coal that lie beneath our shores. Because we need security of energy supplies coal will be mined again in Britain.

We have witnessed the result of Thatcher's vindictiveness: our communities have been devastated, our youngsters are nearly all employed in meaningless jobs, unemployment in our villages is at obscene levels, there is no job security, no dignity and drug substance abuse is at alarmingly high levels.

The saddest thing I believe is the way the British public were conned by the propaganda of Thatcher. She even told lies to Parliament along with many of her ministers, and sadly the British people bought it. They were conned into not supporting the British mineworkers at our time of need.

If we had been successful we may not have seen so many of our young men and women having to be maimed and killed in what probably was an illegal war for oil in Iraq. Perhaps the current financial crisis may not have occurred because the Tories would not have relaxed control on the banking system. We shall never know.

However we cannot change the past - I believe that history will prove us correct.

I can only say that I have been privileged to have been a coal miner and I believe that the 12 month dispute has made me a better person, certainly a more determined and enlightened person and hopefully many more people who experienced it will feel the same.

I have had the great honour of representing miners, their families and a great Union which still survives today some 25 years after the state, Thatcher and the Tories planned to destroy it.

● David Hopper, General Secretary,  
Durham Miners Association

one, it was a battle against the Thatcher ideology and the Tory party who were prepared to close down the whole of the British coal industry in order to beat the NUM.

The National Coal Board (NCB) under the 'hatchet man' McGregor, who had recently been appointed by Thatcher, was closing collieries at an alarming rate. There was little or no consultation with the union over these closures and nearly all the agreed consultation processes were totally ignored. The NCB was steamrolling ahead with its closure programme and a conflict was unavoidable.

After much provocation the large Yorkshire coalfield was called on strike in early March 1984 and other areas including Durham soon voted to join the strike. There really was no alternative: we either resisted the closures or allowed the Tories and the NCB to butcher our industry and our communities.

The strike took off but to their eternal shame the Nottinghamshire miners refused to join the dispute and played into Thatcher's hands by dividing the union. This action, which was very similar to the betrayal of the NUM by the Nottinghamshire miners following the General Strike of 1926, gave the perfect excuse to the leaders of the TUC and

# The attack on the miners was a turning point

by John Hendy QC

No student of the second half of twentieth century Britain could underestimate the importance of the miners' strike of 1984-5. The fact that the labour movement did not succeed has had profound effects in Britain and the world. In 1984 neoliberalism was just under 40 years old, well established but far from being the dominant ideology, even in the USA and UK. The attack on the miners was a turning point in the triumph of neoliberalism in becoming the ideology of government – in the UK and abroad. Ironically the disaster of neo-liberalism is only too evident now, six months into a world-wide recession, 25 years after the miners' strike.

The attack on the miners clearly inspired the print workers in 1986 and the dockers in 1989. The privatisation of the National Coal Board (NCB) led to the virtual closure of the British coal industry (though not to any significant diminution of the use of coal: 43 million tons imported in 2007 at a cost of over £2,000 million representing 72 per cent of coal consumed in the UK).

The strike failed in its attempt to prevent the Tory Government reneging on the long established terms for colliery closure, the Plan for Coal. The reason for that outcome was simple: the weight of the resources committed by Government and employers and the failure of the labour movement as a

whole to rally behind the miners.

Part of the weight of the Government attack was through the law courts. Mike Mansfield QC has written elsewhere in this edition of the use of the criminal courts. I shall focus on the civil courts.

The strike is always dated as having started on 9th March 1984 when Yorkshire area NUM struck in response to a local NCB announcement to close Cortonwood on economic grounds – a reason that was made specifically impermissible by Plan for Coal. In fact Polmaise pit in Scotland had been on strike since February over a proposal to close that pit. There had been a national ban on overtime for some months of such effect that the Central Electricity Generating Board (CEGB) warned the Government that stocks would not last the year.

There has been a suggestion that the NUM made a tactical error in striking at the end of winter but the criticism is absurd since the timing of a defensive strike is inevitably in the hands of the employers: was the NUM to abandon pits (and, indeed, the industry) threatened with closure without a fight?

On 20th February 1984, The Observer claimed that the NCB planned closure of 30 pits with the loss of 30,000 jobs. The NCB dismissed the story as speculation. But on 6th March the recently appointed new NCB chief, Ian McGregor, announced that 20 pits

were to close in the next year with the loss of 20,000 jobs. This was a declaration of war on the miners.

On 8th March the NUM national executive committee (NEC) approved area strikes against pit closures for Scotland and Yorkshire and any other area prospectively. The NEC of the NUM had to approve NUM area strikes under the national rules for such strikes to be 'official'. It resolved to do so by 21 votes to three.

The NUM did not call a national ballot, necessary under its rules for a national strike. This was not a decision of the NUM leadership, Scargill, Heathfield and McGahey; it was a decision of a national delegate conference, binding on the leadership and the members. That did not affect the legality of the strikes called by NUM areas lawfully, in accordance with their own rules and approved by the NEC. The NUM was, of course, a fed-





eration of unions and not a single union. Its structure reflected its history from the founding of the Miners' Federation of Great Britain in 1889.

Other NUM areas took the decision whether to strike in accordance with their own rules. Derbyshire was split. Notts was overwhelmingly against a strike. Within a fortnight 80 per cent of miners throughout country were on strike.

On 14th March the NCB sought an injunction against Yorkshire picketing which was granted on 20th March. However, the injunction was never enforced or relied on and the NCB did not intervene legally again.

Instead another stratagem was employed. As McGregor wrote in his account of the strike: '[...] I started thinking how I too could assist in supporting the [working miners] with their legal actions without being directly involved. Any NCB action would be counter-

*productive in the extreme and would probably repel as many working miners as it would attract. The whole concept of the operation would be like the wartime Department of Economic Warfare. In parallel with our Department of Strategic Warfare we would try to stimulate actions which would cost Scargill so much money that it would reduce his ability to finance flying pickets. It was the success of this area of operations which was to progressively tie the NUM up in knots and ultimately may well have been the single most important factor in bringing about an end to the strike.'*

McGregor engaged an agent (David Hart) to travel the coal fields recruiting working miners and gaining funding from sympathetic businesses and other bodies to institute legal actions against the NUM and its area unions. In consequence there were numerous sets of injunction proceedings against the

NUM and its areas. These barred the use of the word 'official' in relation to the strike and the use of area funds on the illogical ground that an area strike in accordance with its own rules became unlawful because not sanctioned by a national ballot as part of a national strike. The NUM was put first into receivership (Clarke v Heathfield) and then into sequestration (Taylor and Foulstone v Yorkshire Area). Each area had its own solicitors (many represented by Thompsons) but the NUM nationally was represented by Seifert Sedley, in particular by Mike Seifert, Sarah Burton and Jane Deighton who did a truly magnificent job. The NUM survived this onslaught, though we were almost consistently unsuccessful in every hearing of what ended up being 18 months full time and exclusive work for the miners.

The litigation generated by the strike went on long after the strike ended. The ►

►sequestration of the NUM was not lifted until November 1986 and the receivership not until June 1986. There was litigation consequent on the creation of the UDM, and arising from the NCB's discrimination in favour of the UDM over the NUM. Legal advice was needed in 1990 when Scargill and Heathfield were faced with outrageous and false allegations of misappropriation of huge sums from Libya and the Soviet Union during the strike. It was two years before their names were cleared. In 1992 Mr Heseltine proposed the closure of 30 pits to complete the Tory attack on the miners. We challenged the process successfully by way of judicial review. 500,000 people demonstrated in Hyde Park – public sympathy for the miners had not abated but the closures were merely deferred.

The miners' strike, of course, was the anvil for new anti-union laws. The common law developed the interim declaration, and

the use of receivership in a trade union. Industrial action ballots and notices had been introduced in the Trade Union Act 1984 but did not come into effect until after the miners' strike. But the Employment Act 1988 was the Government's response: the Commissioner for the Rights of Trade Union Members, increased members' rights to challenge union expenditure and discipline, extensive rules for the election of senior officials and executive committees, inspection of union books, bar on indemnification of members' fines, and so on. Thereafter the Tories introduced another half dozen anti-union Acts. New Labour has maintained the tight regulation.

We have now ended up with a state of the law correctly described by Tony Blair in March 1997 as leaving 'British law the most restrictive on trade unions in the western world'. British trade unions and trade unionists have fewer rights now than in 1906 after

the passing of the Trade Disputes Act. This is notwithstanding that these restrictions are in breach of international treaty obligations ratified by the UK, as the supervisory bodies have often told this and all previous governments since 1989.

Working closely with the miners in their heroic struggle was a special privilege. The sacrifice of their families was immense. Their leaders were some of the most impressive, long thinking and principled people I have ever met. The criticisms of the leadership at the time and in the 25 years since are wholly unconvincing. What tactical and strategic room for manoeuvre that was available was fully exploited. The fact is that the strike was almost won in the winter of 1984-5. The weight of forces against the miners was and is obvious. As lawyers we were always aware, for example, of the surveillance of state security. It was a sensible precaution to hold consultations in taxis and walking

# Southall: solidarity with samosas

by Pragna Patel

The 1984/85 miners' strike attracted support from many different corners of this country. In Southall, amongst activists and ordinary people alike, there was visible support for the striking miners, their struggle for the right to work, and their right to defend their communities in the face of state repression.

Southall has its own memories of battles against the state, so clearly symbolised by the death of Blair Peach who died in the midst of the anti-racist mobilisation in 1979. That was a seminal moment in its history when, in a relatively rare act of unity, the predominantly Asian community – men and women, young and old – came forward to defend itself against the National Front and a police force which was intent on protecting the rights of the fascists to march and hold meetings in 'our' community. Hundreds of Asian youth were arrested, and one man –

Blair Peach – died at the hands of one or more police officers of the Special Patrol Group in circumstances which have never been properly investigated. This was a memory frequently invoked in the support shown by that very same community for the miners' strike.

For us, as black anti-racists and feminist activists working in Southall, the miners' strike represented a moment in history that was pregnant with the possibilities of forging unity between black and white people against inequality and injustice. We tried to seize that moment. We recognised that there were immediate points of connection between our struggle against racism – on the streets, in workplaces and in state institutions – and the miners' struggle in their workplaces and in their communities. Perhaps the most obvious point of connection between us was the fact of police brutality. Margaret Thatcher's decision to use the full might of the state to crush the miners' strike politicised and militarised the police response in a way which was readily understood by many in black and Asian communities.

The public meetings that we organised in Southall often involved an unholy but productive alliance between socialist activists and Asian business entrepreneurs who provided the necessary resources (no doubt through a sense of residual solidarity borne out of their previous incarnations as trade union activists and communists). Those businessmen gave us a lesson – Indian style – on how to organise support. One in particular – an enterprising if slightly eccentric business



man, not known for any recent gestures betraying any socialist values – came to the fore with his ability to get his business contacts to public meetings at which the doors would be locked until and unless they made substantial contributions in money or kind. It was he who tirelessly traipsed up and down the streets with us, persuading and even forcing shopkeepers to give food or other generous provisions. And people gave generously, from tins of baked beans to crates of samosas and even crates of whisky which accompanied us on our solidarity delegations to the mining communities in Kent and Yorkshire, where we were received with some considerable incredulity.

Those delegations to Kent and Yorkshire provide the most poignant memories, involving not just black activists but also many ordinary Asian women and children from refuges where they had sought sanctuary,



round the squares of Lincoln's Inn. Seumas Milne's book, *The Enemy Within*, gives an idea of the extent of covert state interference.

At the end I felt that we lawyers had done a good job. We had prevented the union being tied up in legal red tape. It did continue to function to the end. It was not the legal process that defeated it.

During the strike the Haldane Society Employment Committee was extremely active, meeting weekly. Apart from raising funds, its greatest achievement was setting up a legal service in Nottinghamshire where those on strike ceased to have any support from their area union (which became the UDM). The service was centred on Ollerton Miners Welfare. A full time co-ordinator was appointed and was answerable to the local strike committee. Volunteer barristers and solicitors went up daily. Since every road into Nottinghamshire had a police road block to prevent pickets it was necessary to organise the

rota so that there was always at least one woman lawyer in the car. Cars with men only – even wearing lawyers' suits – were assumed to be pickets and were, without exception, refused entry to Nottinghamshire on weekday mornings.

The long rota list of Haldane volunteers was very effective and very hard worked. Magistrates Courts in Nottinghamshire (and elsewhere) sat till late in the night imposing bail conditions and dispensing 'justice'.

I fully supported the miners as did the Haldane Society and millions of ordinary folk. We all felt it was a principled struggle against the worst excesses of Thatcherism and the preservation of the industrial and social concord on which had rested stability, and a degree of social equality and mobility since 1945.

Whilst I believe fundamentally in the cab rank rule for barristers which has played an important (though obviously incomplete)

role in securing justice for some (at least) of the poor and oppressed, there is always a satisfying pleasure in being on the side you like or support. For me it was, and remains, a very great honour to represent the NUM. Now with the Legal Services Act 2008, the independence of the Bar and with it the cab rank rule and access to the best advocates is finally to be destroyed – another legacy of the failure to resist neoliberalism 25 years ago.

Like millions of others, on 4th March 1985 I watched on TV the men, and the banner and the band from Maerdy marching back to the pit at the end of the strike and I wept.

● **John Hendy QC** (Standing Counsel to the NUM, though writing in a personal capacity; member of Old Square Chambers; Visiting Professor in the Department of Law, King's College, London; Chair of the Institute of Employment Rights)



*A Black workers' delegation on the miners' picket lines during the strike. The photograph was taken by Ammy Phull (the great banner was by Shakila Maan).*

having fled their own communities due to domestic violence. The feminists amongst us were keen to show that the struggle for 'our' communities necessarily involved the struggle for women's rights – another point of connection this time with the miners' wives who formed 'Women Against Pit Closures'. The arrival of coach loads of black people, including Asian women, with our food and our music, in mining communities where few had encountered black people or eaten Asian food before, must have been a sight to behold. Sitting in their working men's clubs, drinking and chatting, both sides were acutely conscious of the fact that we had occupied parallel worlds until that point. We would like to think that our involvement as Asian women might have helped, not only by showing our solidarity for communities which were otherwise under siege, but also to dismantle their stereotypes about black

people in general and Asian women in particular. In turn, we know we came back, not only with the songs and chants of solidarity that we learnt on their picket lines, but also a sense of their plain and simple courage in the face of great adversity.

Those lessons came to be put into practice in later years when, for example, we found ourselves standing up to the anti-Rushdie demonstrations in 1989 with Women Against Fundamentalism, a small group of black and white women who came together to oppose racism and to assert the rights of women to control their own minds and bodies in the face of the alarming rise of fundamentalism in all religions. So, the song 'Arthur Scargill walks on water...' became 'We are women who walk on water/we are fighting for the future of our sons and daughters...'. And, confronted by the angry and fanatical male demonstrators on the

anti-Rushdie march on the one hand and on the other an equally angry but smaller group of white fascists who came upon us as an easier target, we sought inspiration from the courage we had witnessed during the miners' strike. Ironically, at that point, it was the police who provided us with some protection from the hostility that was directed at us.

It would be easy to paint a romantic picture of the nature of the solidarity that existed between the mining communities and black communities during the miners' strike. The solidarity was momentary and not between entire sections of both communities. But there were genuine attempts to forge alliances between the different struggles in which we were involved – alliances which tried to confront, not just state oppression, but also those internal divisions of power within our communities which give rise to other forms of oppression and inequality, and therefore questioned notions of community and community representation. We sought to demonstrate that issues such as the right to work, police brutality, racism and women's rights are all aspects of the same struggle for equality and justice, and that we cannot win any of those struggles at the expense of other vulnerable or powerless sections of our communities – which is why progressive alliances are necessary. I do not know whether or to what extent we succeeded. What I do know is that in facing present and future challenges, we should not forget these attempts to build a politics of solidarity – there are lessons to be learnt.

● **Pragna Patel** (founding member of the Southall Black Sisters and Women Against Fundamentalism, she has worked as a coordinator and senior caseworker for SBS from 1982 and is currently the chair)



# It changed our view of the British

by Gerry MacLochlainn, Sinn Fein

For many people in Ireland the miners' Strike was a major political episode that changed the relationship between British and Irish people forever. Prior to that, Republicans, facing the might of the British state, would shout about the community of interest between British working class people and oppressed people from other countries. But to be honest, this was not much more than left-wing rhetoric as the best chance we had of running into a member of the British working class here would be as he patrolled our streets in a British Army unit.

But during the strike it became obvious that the British state really had as little concern for its own working class as it had for Irish, Black, Asian or other people who had been victims of British Imperial expansion over the centuries. Nightly we could see, on our televisions, reports of mass police raids, road blocks and baton charges, secret surveillance, and whole communities being placed under siege. Not new to us but this time it was British people who were facing what we had grown up with.

Soon we would welcome teams of striking miners into our homes and communities as they travelled to tell their story and to collect funds to feed their communities as the strike stretched over the months. One of the most memorable images of the miners' strike was of miners who had travelled to Ireland standing crying openly at the generosity of the Republican people as they collected in areas like the Bogside, Ballymurphy and South Armagh. One miner who visited Derry

stated he could not understand that people gave so much when they had so little and it was the army from his country who was oppressing these same people. As he sold his 'Dig Deep for the Miners' stickers around the bars he was given a rousing welcome in every Republican bar he visited. People explained that the struggle for freedom in Ireland was the same fight as the right of working class miners to work and have proper pay and conditions.

We heard stories of miners, who had sons in the British army in Ireland, reaching out to support Ireland's right to independence, telling us: 'We can see your side of things for the first time'. Others would tell of seeing relatives in the British Army who were supposed to be serving in Ireland or elsewhere appearing in police uniforms on foot, horseback and with dogs charging 10,000 pickets at the decisive 'Battle of Orgreave'. It looked as if the violence that engulfed us in Ireland was about to spread throughout Britain as Thatcher referred to the 'enemies within' and set about using the whole strength of her state to smash a union that the Tories had hated and feared since that same union brought down the Heath government.

During that time I was privileged to represent Sinn Fein at a large 'Black People Support the Miners Rally' in the Greater London Council Chamber, alongside representatives of the ANC and the PLO. The hundreds jammed into the hall cheered to the rafters as I was called forward to speak on behalf of Sinn Fein. The two Yorkshire miners flank-

ing me on the platform insisted on getting photographs taken alongside me and took home every Sinn Fein badge I had. One of them could not hide his glee at being able to show off the pictures and badges to his cousin when he got home. His cousin was the infamous Roy Mason who they said had insisted in bringing his Special Branch bodyguards into their meetings when they were trying to organise flying pickets. I think at that time he was more hated by his fellow Yorkshire NUM members than he was in Derry and Belfast.

It was in the few years that followed the strike that the monolithic British state attitude to Ireland began to crumble, and I cannot believe this is coincidental. The hunger strike had already shattered the illusion that Britain was involved in a struggle with criminality in Ireland and within a short time we would see the state conspiracy that jailed the Guildford Four and Birmingham Six fall apart. A few years later the Tories would be forced into dialogue with Sinn Fein and the peace process would start putting down roots. By 1994, just 10 years later, the first IRA cessation was announced and we could see the beginnings of the end for this long war and the opening of a political way forward to establish freedom for Ireland and normal relations between our two countries.

I am sure that many of the people in Britain who played their part in bringing this about were educated in the nature of their state by the treatment of the miners in 1984-85. They campaigned to ensure that future governments would talk to Republicans and agree the abandonment of British claims to Ireland, allowing the emergence of peaceful politics on this island and between this island and Britain.

● **Gerry MacLochlainn** (a former political prisoner in England and Sinn Fein representative in Britain on his release from gaol in 1984 until his return to his native Derry where he is now a councillor. For his support of the miners' strike he was awarded honorary membership of the South Wales and Yorkshire NUM areas)



# It changed miners' views of gays

**B**efore the miners' strike it would have been very hard to imagine a minibus driving round Dulais Valley in South Wales with the slogan 'This vehicle was donated by the Lesbians' and Gay men's miners' support group' painted on its doors and dashboard. But, like many who supported the miners, the solidarity showed by the lesbian and gay community changed the way it, and the lesbian and gay struggle for equality and basic rights, was viewed by the miners for years to come.

In July 1984, the first Lesbians' and Gay men's miners' support group was set up in London and grew to 50 members within six months. Responding to a survey carried out by the Labour Research Department, they said that the formation of the group was 'one of the most important positive developments in London's lesbian and gay community in 1984'.

By February 1985 there were eleven lesbians' and gay men's miners' support groups all over the country. The London group alone had collected over £11,000 over six months through a mixture of pub, club and street collections, benefits, parties and other events. The highlight event was undoubtedly the 'Pits and Perverts' gig at the Electric Ballroom

where Bronski Beat headed the bill; it raised £5,650. At the benefit David Donovan, a South Wales miner, said:

*'You have worn our badge, 'Coal not Dole', and you know what harassment means, as we do. Now we will pin your badge on us, we will support you. It won't change overnight, but now 140,000 miners know that there are other causes and other problems. We know about blacks, and gays, and nuclear disarmament. And we will never be the same.'*

The existence and activity of the various groups showed that many lesbians and gay men supported the miners. As the Southampton group remarked in their response to the Labour Research Department survey:

*'Our best personal experiences were meeting miners who came to the city from Abercynon. After coming down here repeatedly and meeting politically active socialists, seeing them collect money, food and clothing and generally working in support of the strikers, their attitudes were forced to change just by their own experiences, because they know we are just ordinary people, and people who support their struggle [...] They've had to change a lot of their attitudes*

*and as is said so often, things will never be the same again.'*

The Lothian Lesbian & Gay Miners' Support Group was set up in September 1984 with 12 members raising £40 a week for the White Craige strike centre in East Lothian.

Lesbians Against Pit Closures, London, followed in November 1984, involving more than 20 women. They collected £50 a week for the Rhodisia Women's Action Group, Worksop, and said: 'Women's activities in the strike are obviously a major influence on us.'

The lesbians' and gay men's support for the miners received good coverage in the left-wing and trade union press. At the lesbians' and gay men's 'fringe meeting' attended by some 250 people, at the October 1984 Labour Party conference, the NUM (which had dominated the conference) sent the following message of support:

*'Support civil liberties and the struggle of lesbian and gay people. We welcome the links formed with South Wales and other areas. Our struggle is yours. Victory to the miners.'*

And the Notts Women's Support Groups, to whom the London Lesbians and Gay Men Support the Miners Group gave £250 in December 1984, wrote:

*'I am writing on behalf of the Notts Women's Support Group to express to you our gratitude for the support and solidarity you have shown in forming the Lesbians & Gay Men Support the Miners Group. We also extend to you our total solidarity and support in your struggle against all forms of oppression and prejudice on the grounds of sexuality. Our struggles are part and parcel of the same fight. In particular we are deeply grateful that you have consistently kept us informed as to your activities and have materially contributed to support groups in order that the dispute can continue to victory.'*

● This article has been adapted from an article taken from *Solidarity with the miners: actions and lessons* from the Labour Research Department's survey of over 300 miners' solidarity groups, August 1985, Labour Research Department.



The Great Miners' Strike, which started in March 1984 and ended in March 1985, was the longest industrial action in a national industry covering the whole of a country in the history of capitalism. It was also undoubtedly the most bitterly fought industrial dispute in Britain in the second half of the twentieth century.

The strike was deliberately provoked by the Tory Government led by Margaret Thatcher. This was partly motivated by revenge for the defeat by the miners of an earlier Tory Government led by Ted Heath and partly as the first and potentially the most telling blow in the Thatcher Government's attempt to discredit and disarm the whole trade union movement.

The strike was also notable for the bitterness of language on both sides. The NUM knew that this was a politically motivated attack on their union and on the whole trade union movement and they were prepared to fight to the bitter end. Thatcher, typically, upped the stakes by comparing the miners to the Argentinean army during the Falklands war. 'We have defeated the external enemy,' she declared, 'now we will defeat the enemy within'.

The struggle was so intense and so bitter that there was tragically (but not entirely unexpectedly) a widespread loss of nerve in the leadership of the Labour Party and among many trade union leaders. Things got so bad that people who had been colleagues over many years severed all relations which were never resumed. For example Jim Mortimer, the General Secretary of the Labour Party at the time, was a fervent supporter of the miners and their struggle. The leader of the Labour Party, Neil Kinnock, refused to support the miners and Jim was from then on unable to be anywhere near him without feeling physically sick.

Inevitably, the opponents of the strike had to shelter behind a myriad of excuses – the most common of which was that the NUM had not held a ballot. Without going into the constitutional niceties this was nothing more than a sham – a smoke screen to disguise their fear of mass action by workers. In a nutshell, you were either for the miners or against them: there was no room for sitting on the fence.

In this fraught atmosphere the Haldane Society played an outstanding, honourable role. The Society gave unstinting support to the miners in their struggle.

Individual members of the Haldane Society worked tirelessly in the criminal and civil courts all over the country on behalf of the miners. Payment was very much a secondary consideration. It would be invidious to name individuals as every Haldane member did what they were asked to do and no member – so far as I am aware – shrank from doing whatever was asked of them.

Perhaps the most outstanding achievement of the Society as a whole was the staffing from the early summer of 1984 to the end of the strike some nine months later of what amounted to a law centre in Mansfield – the hub of the Nottinghamshire area of the NUM – to serve the striking miners and their families.

# Haldane Society: our finest hour...

by Mike Seifert



To put it into context. The Nottingham coalfield was the second largest after Yorkshire. But unlike Yorkshire the Notts area NUM suffered a disastrous split with a large majority breaking away and, after a number of major legal battles, seizing the assets and property of the area NUM. This left a minority (albeit of several thousand) who continued with the strike to the very end. These brave miners and their families in many ways faced the sharpest struggle of all for a number of reasons.

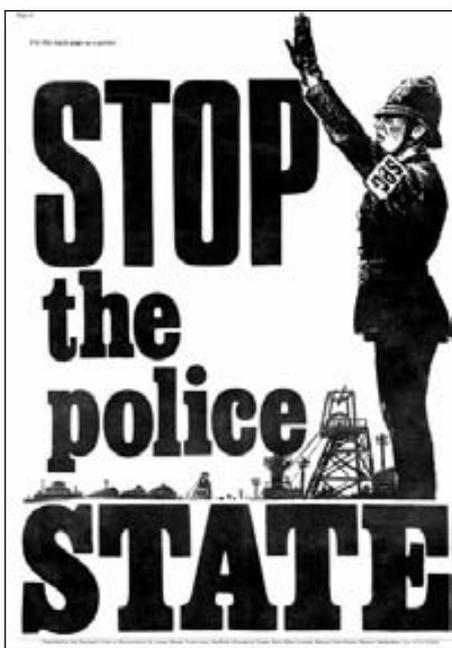
Not only were their assets seized by the strike breakers but they faced the most savage and concerted police action of any group of

strikers. The Chief Constable of Nottinghamshire became a watch word for anti-union right wing politics in the police thereby encouraging the most violent, illegal behaviour by his officers against the picket lines.

At the very beginning of the strike I was asked by the NUM to negotiate with the Chief Constable and a meeting was arranged at his fortress-like premises in Nottingham Forest. I had dealt with some of the most brutal senior police officers in the country – such as the notorious Commander Bond of the Special Branch, a violent man to whom lying was second nature. But my treatment in Nottingham when I remonstrated with the Chief Constable about the illegal violence used by his men against perfectly lawful pickets, was extraordinary. Suffice it to say that when I refused to accept his anti-union polemic and argued back, quoting the law at him in front of his senior officers, he threatened to personally throw me out of the premises. He was a large irascible man and had to be restrained by the intervention of two of his senior officers.

The violent almost fascist attitude and behaviour of the Chief Constable permeated the whole of the police force in Nottingham. Dozens and later hundreds of miners were beaten up on the picket lines and dragged before the courts.

At first, my law firm (Seifert Sedley) was able to deal with these cases. Young solicitors and trainees, most notably Jane Deighton, Gracia Stephenson, Sarah Burton, Jim Nichol and Steve Cottingham, went from our office on a regular basis to Nottingham. In spite of us later on sending other people from the firm such as Vicky Guedalla and Louise Christian, the increasing volume



of violent unlawful arrests and other legal problems made it impossible for one medium sized law firm to cope. No local solicitors were prepared to lift a finger to help the strikers and their families.

At this point the Haldane Society rose magnificently to the challenge. Despite the calumnies of the right wing media and the pusillanimous attitude of Labour Party and trade union leaders, the Society was able to set up a legal advice centre in Mansfield for all striking miners, their families and supporters. I managed to organise professional indemnity insurance to cover the operation and Seifert Sedley also covered all expenses and incidental costs, and some of the work. Jane Deighton in particular was part of the Haldane team up to the end of the strike.

The Haldane members defended pickets in the criminal courts and pursued claims against the most brutal of the police officers in the civil courts. Just as importantly for keeping the strike going and on a human level, Haldane members advised about claiming maximum benefits to feed the families after Thatcher had shamefully slashed social security entitlements for strikers. Advice on housing and a whole host of other matters (including even defamation) was provided by Haldane volunteers.

For our pains, Seifert Sedley (who for technical reasons had to front the Haldane law service) were subjected to a barrage of complaints to the Law Society from local law firms, none of whom were prepared to give any assistance whatsoever to the strikers. The complaints of professional misconduct included poaching clients by undercutting fees (i.e. the Haldane giving free legal advice) and advertising for clients by circulating striking miners with details of where they could obtain free legal advice. I attended the Law Society on several occasions in order to defend our position and was able to fend off allegations of professional misconduct.

No account of the Haldane Legal Advice Centre in Nottingham during the strike would be complete without touching on the extraordinary personal friendships which developed over the months. The learning process was inspiring, particularly for the lawyers but also for the miners and their families. For example, when Gracia Stephenson went to Mansfield very few, if any, black women had been involved with the NUM and indeed with the mining communities. Her astute legal mind and considerable personal charm rapidly allayed any doubts there might have been.

But it was the Haldane members who learned most about class struggle and working class solidarity in the teeth of a concerted and vicious onslaught.

Those were truly unique and challenging times and the Haldane Society and its members memorably rose to the challenge. It should be a source of great pride to all Haldane Society members that when called upon to support the Notts miners who were under the cosh both physically and metaphorically, they rallied round without a moment's hesitation.

● **Michael Seifert** (one of the Vice-Presidents of the Haldane Society)







we chose, that we were not fated merely to continue our history but could conquer it. We did not, of course. But it is a matter of record and still needs saying that, in Derry at least, the activists who triggered the civil rights campaign did not see themselves as Orange or Green, but of a hue which we believed would in time (and maybe not very much of it), obliterate the colour-coding of religious division which long had provided the template for Irish (especially Northern Irish) politics. We had had a glimpse – no more – of possibilities beyond the old limits of thought.

Northern Ireland in that interlude fitted naturally enough into a thrilling narrative unfolding across the world. If the revolutionary perspective soon faded in the North, giving way again to the old conflict which advocates of communal politics felt comfortable with, well so did the conventional pattern of social democracy versus conservatism reassert itself across Western Europe. Republican and Democratic Parties in the United States resumed ritual contestation of the narrow ground between them, Stalinism re-emerged in Poland, Hungary, Czechoslovakia, etc. Business as usual, up to a point.

Now there are those in Northern Ireland who style themselves as anti-imperialists but who will not say boo to an arms company which fuels imperialist war for profit lest they make enemies of corporate America. When the Raytheon 9, members of the Derry Anti-War Coalition myself among them, occupied and ‘decommissioned’ the arms company’s Derry plant in August 2006 in a successful effort to disrupt production of military equipment being used in Israel’s assault on Lebanon, the main nationalist parties, the SDLP and Sinn Fein, self-proclaimed opponents of the arms trade and Israeli aggression, denounced the action because of the likelihood it would alienate US business and political interests which might otherwise take a positive approach to Derry’s economic needs and nationalist concerns.

Opposition to imperialism and war profiteering, like solidarity with the victims of racism in the 1960s, is subjected to the needs of ‘our community’ vis-à-vis ‘the other side’. Not that ‘our community’ benefited one bit in either instance although there are sometimes, of course, political and personal benefits for those who flip-flop into the arms of the US ruling class. To this extent, the flip-flopers can be said to have prospered.

In contrast, the socialist adventurism of the late sixties is commonly said to have ended in personal and political disappointment and eventually to have been revealed as no more than a brief flurry of sanguine naivety. But that’s not the only way to understand the

▶ period. The ideas of internationalism and revolt from below which animated young people around the globe 40 years ago are, I dare say, more relevant in the globalised present than they were in the heady days of gas and barricades in the Bogside. It is the current sharp relevance of the global context which makes it imperative to see the Northern Ireland events of the late sixties against the background of the war, tumult and repression which was raging across the world at the time.

January 1968 saw uprisings in every city in Vietnam and the seizure by the Viet Cong of part of the US embassy in Saigon. US soldiers battled for weeks to retake the ancient capital, Hue. Outside Hue, a US general uttered the immortal words: 'We had to destroy the city in order to free it.' The fact that an army of poor peasants could take on and push back the forces of the greatest power on earth had a shattering effect on the self-confidence of the

US ruling class and gave a huge boost to the morale of anti-imperialists everywhere.

Martin Luther King was assassinated in Memphis in April. What followed across the US was characterised in the media as 'riots'. A better word would have been 'uprising'. Thousands of young people stormed out from African American neighbourhoods to tear down symbols of the system and engage in hand-to-hand combat with the uniformed representatives of oppressive authority. Many moved away from the moderate politics of Dr. King and turned towards the Panthers and other uncompromising groups. A few weeks later, at a sit-down protest on the lower deck of Craigavon Bridge, Roddy Carlin struck up a chorus of the song most associated with King, 'We Shall Overcome'. By the end of Roddy's rendition, the crowd of a couple of hundred (it's a very easy song to learn) was singing lustily along.



## Ten years after: remembering Rosemary

# 'IF NOT M

Rosemary Nelson was a solicitor in Lurgan, a small town in County Armagh, Northern Ireland. Much of her work was 'bread and butter' conveyancing and family law but her reputation in the community for being committed to fighting injustice led to her being instructed on some of the most politically charged cases of the time. Rosemary represented many defendants associated with armed sectors of the Republican struggle, including members of the Provisional IRA, and others accused of terrorism. But Rosemary also acted for the Garvaghy Road tenants in their efforts to prevent the Orange Lodge parade passing through their community in a blatant attempt to provoke and intimidate residents.

Perhaps most notably, Rosemary represented the family of Robert Hamill who died at the age of 25 after being repeatedly kicked in the head in a sectarian attack in 1997. Robert was walking home from a dance when he was set upon by a large group of loyalists just returned by bus from a rugby match. At the time, four members of the Royal Ulster Constabulary (RUC) were sitting in a car only 20 feet from the attack, with the local (and well-manned) police station only minutes away. Despite repeated requests, they did not intervene or assist Robert. They did not declare a crime scene after the attack had

ended and made no notes of what they had witnessed before going off duty that night.

After the investigation into the attack had been opened, further concerns arose about the close ties between the investigating officers and the suspects. One officer contacted a suspect by telephone, tipping him off about his imminent arrest. Family members of the suspects provided false information in an attempt to absolve them, but when this came to light no action was taken by the police despite this deliberate attempt to pervert the course of justice. Shortly after Robert's death the RUC started spreading misinformation that he had died as a result of a riot between two large groups. Robert was with one other male and two young women when he was attacked.

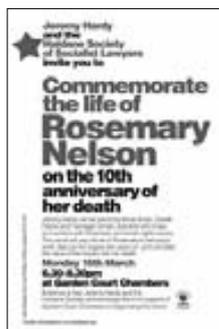
Rosemary worked tirelessly to prove state collusion with the loyalist paramilitaries but this tenacity and courage was at the eventual cost of her life. On 15th March 1999

Rosemary got into her car and left her home in Lurgan. The car exploded as a result of a car bomb fitted underneath the car. Rosemary died of her injuries the same day. A loyalist paramilitary group claimed responsibility for the death, but her murder has been dogged by claims of collusion between her killers and the Royal Ulster Constabulary / British Army.

The weekend before her death, Rosemary had received the latest

in a series of death threats – she had suffered continual verbal and physical harassment – directed against her and her three children, from both loyalist paramilitaries and the RUC. During the last years of her life she was told by various clients that RUC officers had made her the target of abusive, insulting and demeaning remarks. Her clients told her that when they were interrogated by the RUC the officers would often suggest that they should obtain another lawyer because she would soon be dead. Rosemary was also threatened directly by the RUC, and suffered physical assaults from individual members of the force. During a disturbance at the Garvaghy Road, where Rosemary heard an officer threaten a local member of the community and tried to intervene, she was grabbed by the officer, dragged into a crowd of other RUC officers, spat at, assaulted and called a 'Fenian fucker'.

In 1998, the United Nations Special Rapporteur on the Independence of Judges and Lawyers, Param Curamaswamy, noted these threats in his annual report, and stated in a television interview that he believed Rosemary's life could be in danger. He also found that solicitors in Northern Ireland were subject to systemic intimidation and harassment by the RUC, and that there was a compelling need for the Government to provide the necessary protection whenever the physical integrity of a barrister or solicitor was threatened. He made various recommendations to the British Government concerning threats



In May, Paris erupted. Students built barricades in the streets around the Sorbonne university and drove the police from the vicinity. Factories and offices emptied as workers, against the urging of trade union leaders, struck in solidarity. The 10 million strong stoppage which followed was the biggest strike ever in Europe. The notion of the struggle across the world as historic, seismic, the defining clash of our time, was not entirely fantastical.

Each upsurge of struggle sent out a flurry of sparks which helped ignite struggle elsewhere. Everywhere some who had become involved in protest politics on account of grievances particular to their own community or group, saw that they were not alone, either in the nature of their oppression or in the fight for its overthrow. The last resort analysis of reformed radicals and other respectable sorts has it that this internationalist spirit, which might have struck even level-headed people as reasonable

at the time, has been exposed in the interim as sheer light-mindedness, charming in its way and reflecting an era of innocence, but of no relevance even in rhetorical terms to modern material reality. There are few propositions farther than this from the truth.

Internationalism is more relevant today than ever – not because anti-capitalists wish it so but because capitalism itself, the never-ending source of our political ills, has never been more integrated on a global scale. For socialists, the basis of internationalism has never lain in fellow-feeling with struggles which coincide with or parallel to our own – although the sentiment would be a start – but in understanding that because those who run the world in the interests of the rich are organised across countries and continents, so must opponents of capitalism be if we are to confront them in appropriate array, in a formation which makes victory possible at least. We must see and un-

derstand those who struggle elsewhere along the same lines as ourselves not only as campaigners we sympathise with but also and more importantly as part of the same movement pitched against the same force.

The point is made more sharply by consideration of campaigns against the widening inequalities between the rich and the rest of us across the world. The crisis of capitalism which shuddered the world in 2008 and brought the lines of class division into sharp relief is not amenable to solution in any one country – not even the economic super-power America. The same banks, the same bail-outs, the same interlinked issues. If we hold on to the memory of 1968, draw out the lessons, the best is still to come. ■

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Eamonn McCann is a journalist and socialist and was one of the founders of the Civil Rights movement in Derry

## Nelson

# E: WHO?

from police against lawyers, which were not acted upon.

The killing of Rosemary Nelson occurred 10 years and one month after the murder of Patrick Finucane in February 1989. In light of this, it would be reasonable to expect that governmental agencies would take a very serious view of threats to lawyers, particularly those that were defending people charged with terrorist offences. But when Downing Street and the Northern Ireland Office director of security, David Watkins, were warned of the risk to Rosemary's life the only help offered was protection provided by the source she said threatened her life, the RUC.

Jeremy Hardy, comedian and friend of Rosemary's, worked closely with her on the Robert Hamill campaign. Chairing the Haldane's commemorative lecture at Garden Court Chambers on 16th March 2009, he described Rosemary as a brave and cheerful woman who used the law to empower people. He explained that Rosemary always strongly suspected she would be killed, but that she would not be deterred from her work. Imran Khan and Gareth Peirce, who had both worked closely with Rosemary, similarly praised her work. Gareth told of Rosemary's integrity and bravery, going in and out of Long Kesh prison regularly, despite the stigma attached to those representing alleged terrorists. She also spoke of Rosemary's efforts to expose state involvement in many of her cases: 'Rosemary tried to say there was collusion at the highest lev-

els, and she was killed for saying it.' When asked why Rosemary continued her work in the face of such threats she is said to have responded: 'If not me, who?'

After years of campaigning, a public inquiry into Rosemary's death was opened in April 2008 under the controversial Inquiries Act 2005. Amnesty International has asked members of the British judiciary not to serve on any inquiry held under the Act, stating that 'any inquiry would be controlled by the executive which is empowered to block public scrutiny of state actions'. Peter Cory, the Canadian Judge commissioned by the British and Irish governments to investigate the possibility of state collusion in six key cases, has also been highly critical of the Act. His investigations resulted in a recommendation in 2004 that public inquiries be held into the deaths of Rosemary Nelson, Pat Finucane, Robert Hamill and Billy Wright, a former member of the Ulster Volunteer Force (UVF) and leader of the extremist Loyalist Volunteer Force (LVF) assassinated in prison by the Irish National Liberation Army (INLA) in 1997. Cory has strongly condemned the Inquiries Act, stating that: '[I]t seems to me that the proposed new Act would make a meaningful inquiry impossible. The Commissions would be working in an impossible situation. For example, the Minister, the actions of whose ministry was to be reviewed by the public inquiry, would have the authority to thwart the efforts of the inquiry at every step. It really creates an intolerable Alice in Wonderland situation.'

Rosemary's inquiry has indeed proved to be entirely inadequate. Her family's legal representatives have no right to put questions directly to the witness, undermining any ability for tenacious questioning. Gareth Peirce expressed serious doubts about the value of the inquiry at all. She called it 'a tenth rate pretence of a public inquiry' and added that it seemed a very long time to wait for a useless inquiry into the death of a woman executed with the help of the authorities. This has done little to dispel assertions that Downing Street never wanted a truth commission because it would put the state under scrutiny for its own sponsorship of terrorism, and expose the allegations that loyalist hit squads were an auxiliary to the British security state.

It is clear that there is much left to be done to hold those responsible for Rosemary's murder, and the murder of many others, to account. And although the legal mechanisms inquiring into Rosemary's death paint a depressing picture of failures to expose collusion and the darkest workings of the state, Rosemary's life was an inspiration for progressive lawyers, and all those who struggle for justice. The responsibility to face this injustice without fear, regardless of intimidation and risk, is what made Rosemary Nelson a remarkable woman and an exceptional lawyer. ■

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Kat Craig is editor of *Socialist Lawyer* and a solicitor at Christian Khan Solicitors

# GAZA & ISRAEL'S WAR CR



**T**he brutal attacks on Gaza illustrate the failure of international law. The law both failed to prevent Israel attacking Gaza and also failed to protect civilians and the civilian infrastructure during the course of the conflict. Of 1,434 Palestinians killed in the invasion, 960 were civilians, including 121 women and 288 children. Schools, mosques, hospitals and government infrastructure vital for the functioning of society, were damaged and destroyed as well as the power, water and sewage systems.

The appointment of Richard Goldstone, the former war crimes prosecutor from South Africa, to head a fact-finding team into possible war crimes is an important step in the right direction. Goldstone was one of 16 leading war crimes investigators and judges who had urged the United Nations in an open letter, to launch a full inquiry into possible war crimes committed in Gaza, stating they were 'shocked to the core' by events in Gaza. The question then is what happens if there are findings of war crimes? There is little prospect of any prosecutions in the International Criminal Court as any such move would almost certainly be vetoed by the United States and probably by the United Kingdom. Activist lawyers using universal Jurisdiction, in countries such as Spain and in Britain may have more success, even if it only succeeds in preventing the Israeli commanders from travelling abroad.

We should support the struggle by the people of Gaza for accountability and justice, and that should include individual criminal prosecutions. It is vital that we remember and support those people whose lives were devastated by the attacks. The story that follows is just one of many testimonies gathered from women living in Gaza during the brutal onslaught.

## **Amira's story**

'My name is Amira, I am 48 years old. I have three children aged 19, 16 and 14. Every night I doubt that tomorrow will come and I will see the light of day again. Living without electricity, without water is not easy. We have been cut off from the world for three weeks now. The bombs during this attack are different to the ones that we usually hear, their sound is so high, I had never heard anything like it before this attack. Last night I could not make my legs stop shaking, I was shaking because it is very cold, and we have nothing to warm us, only our clothes and blankets. But we don't even have enough of these as we are now sharing our house with our neighbours who had to flee their own house as it was bombed and completely burnt out last night. This is all adding to my state of anxiety. My neighbor is terrified, especially as she had to flee her home, she can't sleep. We had to give her a pill to help her sleep tonight.

You know, since the siege began and the Israelis stopped most things coming into Gaza, we had to use our own electricity motors to light up our homes. But since the war started we have not been able to buy benzene for the motors and so we haven't had electricity. Just for a start this means that there's been so many times I haven't been able to charge my mobile phone and this makes me furious as I feel so isolated from the world. We also don't have landlines as the phone lines in our neighborhood were cut during the bombardment.

This is not a normal attack; this is an attack on all of us. I haven't been out of the house yet, but I am afraid of what I will see after this war is finished. I keep thinking of all the people who lost their homes – where are they going to go after the war is finished? Many of them are having to live in schools and this worries the families as well as the students who are supposed to study there. I imagine that the situa-



# IMES: A WOMAN'S STORY



tion will be very difficult – more than my mind can think of right now. I also keep thinking about those who have lost somebody, a father, a mother, a sister a brother or whatever relative, how can they be compensated? You can never compensate for the death of a loved one.

There is so much news, information and small details that my mind has not been able to absorb. I'll tell you the story of a friend of my son. His father was killed along with another six relatives from the same family. He was able to recognise his father from the eye glasses his father was wearing; people are saying they were burnt with white phosphorus.

I feel that each one of us is only able to see and worry about his or her own little world, her family, her friends and even that is too much sometimes. I feel humanity and the concept of humanity has been killed during this war. The crime being committed here is enormous, and human dignity is being trampled on. I feel as if we are the criminals for being alive.

Sometimes I feel that the Israelis should just

finish us all off once and for all, that this would be better than living with the feeling of waiting for my turn, or my children's turn to die. I feel that nowhere in Gaza is safe and that things are even worse after they bombarded the UN school that was shelter for the many families who fled or whose homes were destroyed. At least 40 of the parents and the children who were staying there were killed. On top of that the hospital was also attacked. So this means to me that there is no safe place at all, everywhere can and is being attacked.

Last night was horrible, there was bombardment during all the hours of the day and night. It was non-stop; I seriously thought that any of the bombs was going to land in my house. Every time I hear the sound of a bomb, I feel that it is coming for us in my house. Every sound I hear feels like a bomb coming for me. Every time there is bombing, the houses and all the windows shake – it feels like a warning.

I am also afraid that after all the pain during this war, we will just go back again to living under siege. If I knew that after this war the siege would be lifted I would still have a little hope, but it terrifies me to think that after this war ends, the siege will continue as if nothing had happened – that all the restrictions on electricity, food, basic goods will continue and we will remain trapped here unable to leave, even to visit friends and family in the West Bank.

You know what? We will all need therapy to be able to look at our lives, ourselves and what has happened with some perspective. The pharmacist told me the other day that what most people wanted were pills for the nerves. This was before the war. I wonder if a pill will be enough after the war.' ■

As told to Soraida Hussein from the Women's Centre for Legal Aid and Counselling, Ramallah.

## Steve Cohen

Steve Cohen died peacefully at home in the early hours of Sunday 8th March 2009.

'Peaceful' is the last adjective that anyone would use about the rest of his life. Battling against the state, local and national, battling with the legal profession, and with the left (in all its many forms), and finally battling against long term disability, illness and death.

There are many friends, many individuals and families who won their campaigns, and many immigration legal practitioners who knew Steve for longer and better than I did. The immediate testimony to this was the hundreds who packed into the (first) memorial for his life, on the Thursday after he died. A further memorial is planned for July. And just a few weeks earlier Lord Justice Sedley (who supervised Steve's barrister pupillage) had given me his personal best wishes to pass on to Steve.

Ironically the memorial was held in Manchester town hall, the premises of the Manchester council over whom Steve had just won a major victory – to retain the personal carers who had been supporting him in his own home, rather than to succumb to the privatised and more anonymous service resulting from the council's embracing of the individualistic free market 'direct payment' scheme which they are forcing upon disabled people.

Steve had approached this very personal struggle in the same way as every other he took up – with an element of the law but with a preponderance of a campaign. Caseworkers he supervised report that when asking Steve's advice about legal merits he would always look at them and simply tell them to 'start a campaign'.

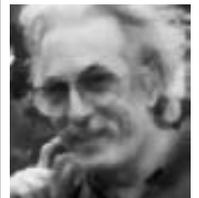
Because that was what he had always done. First, through South Manchester Law Centre, with Nasira Begum and particularly Anwar Ditta, who has continued to campaign herself ever since her victory in gaining reunion with her children. Second, through the Greater Manchester Immigration Aid Unit, which he and I helped to set up (a struggle in itself at a time when Manchester's Labour Council was implementing

Tory cuts that it had been elected to oppose).

And third, through taking the slogan 'No One Is Illegal' and turning it into an organisation, with publications and conferences, at the same time as assisting individuals who came to Steve for personal advice, or whom he just seemed to come across and encouraged. Campaigning against all immigration controls and all deportations was not inconsistent with taking up individual campaigns. Notably the latter included such as Mansoor and Aqila Hassan, fleeing persecution in Pakistan because of their journalistic attacks on government corruption and honour killings, and Samina Altaf, herself disabled, with two children in need of NHS treatment in order to prevent the onset of their own disability, who were then threatened by Labour's introduction of the inhumane Section 9, of the bizarrely titled Asylum and Immigration (Treatment of Claimants etc) Act 2004. Section 9 would have forced Samina 'voluntarily' to leave the country, or have her children taken into care.

Steve ensured that Samina got legal representation, that she took her struggle to the disability organisations (sadly less than welcoming – which led Steve to a battle on another front) and that she confronted press and politicians (leading to front page Guardian coverage thanks to the personal support of journalist David Ward). Her local MP, one Hazel Blears, was less fulsome. She seemed to run away from every local constituency surgery which Samina and her supporters had promised to attend.

The leading campaign against Section 9 was the Sukula family in Bolton. Again Steve's role, from the confines of his flat, was crucial – supporting, encouraging and connecting the family and their supporters, while demanding, attacking and condemning the Government and the local councils who might have implemented this Section. I had taken Steve to one of the Sukulas' public meetings and we both realised that the chair, Florence Okolo, who had won her own campaign with Steve's help in the 1990s, was starting a eulogy of Steve personally. There was no way out. Muttering under his breath



Steve Cohen:  
1945-2009

## Paul O'Higgins

Professor Paul O'Higgins who died on 13th March 2008 at 80 years of age, was an internationally renowned academic labour lawyer and Vice-President of the Haldane Society. A year on, the



Haldane Society records his achievement.

For much of his professionally active life, he was based in Cambridge University, initially as a research student at Clare College (1957-1959) and thereafter as a Fellow at Christ's College where he became a lecturer and then, in 1979, Reader in Labour Law. I had the very great good fortune to have my dissertation supervised by him there in 1970-71 when my LLM tutor at Queen's University, Belfast (the late Jim McCartney) was on a sabbatical.

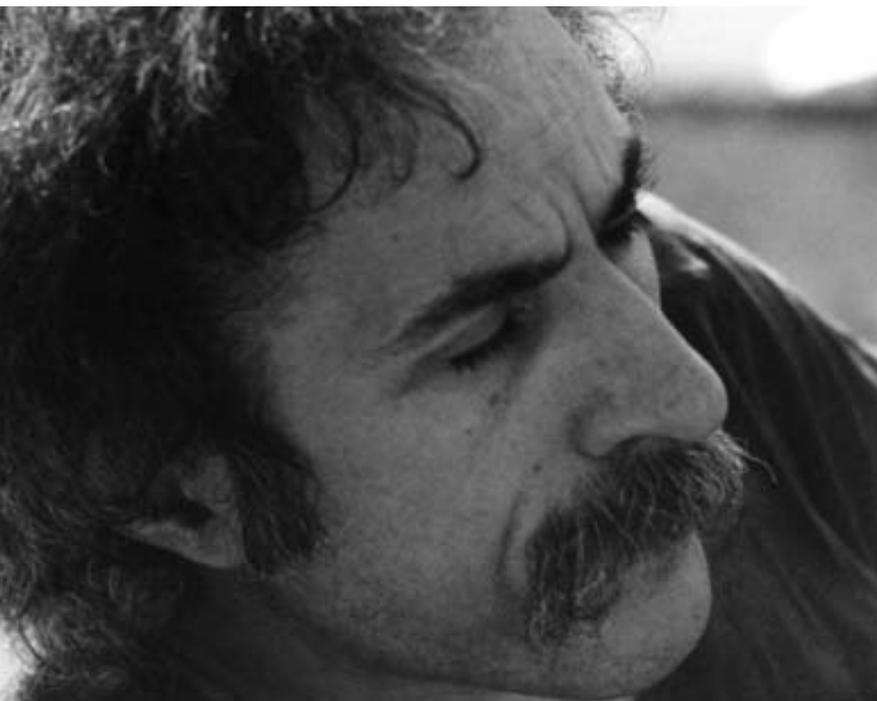
Paul's parents were from the west of Ireland. They moved to England, where his father worked

as a vet, having fought with the British army in the first world war with distinction (two MCs). His mother lectured in Italian literature at Trinity College, Dublin.

Paul started school in Pinner in Middlesex, but continued his schooling in Galway and then Dublin. As an undergraduate he studied medicine at Trinity College, Dublin but did not or was not permitted to sit his final year examinations in 1951, apparently because of his activities as Chair of the Student Representative Council of which he was founding Chair. He switched to law, and graduated in 1957 with a high first class honours degree.

He was called to the Bar by the King's Inns. He then returned to England and went to Clare College where he wrote a PhD thesis on political asylum which was very highly thought of. He was also called to the Bar by Lincoln's Inn, but never practised.

In the 1960s his socialism led him to labour law and he taught on Bill (now Lord) Wedderburn's undergraduate course in labour law (then called 'industrial law'). He took over the course when Bill went to LSE in 1964. He also taught social security and human rights law. His knowledge of Irish and British trade



that this was so wrong, Steve couldn't help but get up, stagger to the front of the hall, and then deliver a flawless tirade against immigration controls and in favour of campaigns.

Steve was a prolific writer, particularly of pamphlets with bizarre titles. In *Standing on the Shoulders of Fascism*, he wrote 'as soon as it became obvious that Jean Charles de Menezes was himself not involved in terrorism, the Home Office suggested he had overstayed his leave in the UK – as though this somehow justified his being shot dead'. In *Deportation is Freedom!* The Orwellian world of immigration controls, he noted the defensiveness of the left, which fears that 'ordinary' people are not ready for the 'premature' abolition of immigration controls.

To paraphrase the latter point, because it indicates many of Steve's targets in one go: – some feel that success only comes

through prayer or divine intervention (but we never saw God on the anti-deportation demonstrations); some want "fair" or "benign" controls (but these are by their very nature unjust, inequitable and racist); and some just know that the controls are insane (but any Marxist can show that they are the product of imperialism, through which newly industrialised countries control the global movement of labour).

I felt, reading this, that over the years Steve had come to admit that the third group was not wrong, and certainly not mad. The UK's current immigration controls are indeed insane. In New Labour 'Newspeak' people who are seeking asylum have the 'freedom' to go home and get killed. If they want to avoid detention under the terrorism laws, they are 'free' to agree to be deported. If they do not want to be made destitute, or put out on the street and have their children taken away from them (or put in 'new' 'family friendly' special detention centres for families), they are 'free' to agree to 'voluntary' deportation. In Labour's immigration tribunals, there are welcoming reception areas with comfy chairs and clean carpets, crèches and evaluation forms – all to sugar-coat the same old message of 'appeal dismissed, fuck off, go home, and die'.

Steve's main theme remained clear, in all his writing. The history of struggle, from 1895 to No One Is Illegal and No Borders, shows that there are 'ordinary' people in heroic movements. Steve's support and encouragement for these was unselfish, lasting and unconditional.

Steve and I crossed paths many times in over 30 years of activism. As a barrister, he was intrigued (and encouraging) about my more recent taking up of the profession. As campaigners we debated constantly (though never about Palestine) and undoubtedly raised our own sights as a result of joint thinking. I realised well after the campaign was over, that Steve and I had argued exactly the same lines, without any connection between us, throughout Viraj Mendis' campaign; and both were pleased to greet Viraj when he was first able to return here, to a rebuilt Hulme, in 2005. Viraj currently cannot get a visa to get into the UK. But notwithstanding this, he is trying to set up an internet resource of anti-deportation materials, and I finish with Viraj's own emailed words: 'As we started this project because of Steve – we should dedicate it to him and not let any obstacle come in its way.'

● **John Nicholson**

union law was incomparable. He wrote a bibliography of British and Irish labour law and his comparative law interest led him to enthusiastic promotion of the awareness of relevant international treaty law (such as the International Labour Organisation Conventions and ILO jurisprudence).

He founded the Encyclopaedia of Labour Relations Law with (now Sir) Bob Hepple and wrote a seminal book on *Censorship in Britain* in 1972. He wrote *Cases and Materials on Civil Liberties* in 1980. With Martin Partington he wrote a bibliography of social security law, not hitherto consid-

ered apt for academic study.

He never hid his lifetime commitment to socialism and to the poor and oppressed. He was a great supporter of the Workers' Educational Association and taught on shop stewards courses. Many had the benefit of his learning. He was a kind and very gifted teacher with enormous warmth, empathy, hospitality, and kindness. What was particularly inspiring was his bubbling enthusiasm and faith in his students.

He was an enthusiastic collector of old Irish legal books and documents. He wrote extensive bibliographies of Irish trials



*Paul O'Higgins*  
1927-2008

and Irish legal periodical literature, largely responsible for the LLD degrees he received from Trinity College, Dublin and from Cambridge. He was elected a Fellow of the Royal Irish Academy in 1986.

He had been refused a Chair at Trinity College in 1970, probably because of his earlier student activism, but this was made good in 1985 but for health and personal reasons, as well as frustration with the paucity of re-

sources for the Law School, in 1987 he returned to England, becoming a professor at King's College, London until retirement in 1992. He was Vice Master at Christ's until 1995.

In 1952 he married Rachel Bush, daughter of the composer Alan Bush. He was a great promoter of the Alan Bush Music Trust founded by Rachel to promote the neglected work of this socialist composer. He is survived by Rachel and by their son and three daughters.

Paul O'Higgins, legal scholar: born 5th October 1927; died 13th March 2008.

● **John Hendy QC**

# Reviews

## Waltz With Bashir

2008: 12A: 90 mins; Directors: Ari Folman, Justin Edgar; Cast: David Proud, Dominic Coleman, Jason Maza, Robyn Frampton, Sasha Hardway

Soon out on DVD, *Waltz with Bashir* was one of the best films of 2008. The Israeli director Ari Folman uses an animated documentary style to piece together his memories of the 1982 Lebanon War, in which he served as a 19-year old foot soldier in the Israeli Defence Force.

It is 2006 as his character tracks down those he served alongside. He speaks to a psychotherapist friend who talks to him about the tricks memory can play on us. One night in a bar, an old friend tells Ari about a recurring nightmare in which he is chased by 26 vicious dogs. The two conclude this is linked to their Israeli army mission. Folman travels to Holland to meet with an old comrade who has become wealthy since the war selling falafel to liberal, health-conscious Amsterdam dwellers. He interviews an IDF officer who was higher up in the chain of command during the conflict. Israeli journalist Ron Ben-Yishai, who was in Beirut at the same time as Folman, gives his recollections of the events that led up to the Sabra and Shatila massacre. As the film's protagonist delves into his memory it becomes clear that a number of those he speaks to have found their own way of erasing the conflict from their memories.

This is a contemplative, haunting anti-war film. Hallucination morphs into reality and vice versa. The animated scenes stay with you long after the film ends as does the original BBC and ITN footage that has been used. Max Richter has composed an exquisite soundtrack which enhances the dream-like atmosphere and lends power to the events as they unfold.

● **Tim Potter**

*Waltz With Bashir:*  
a contemplative  
and haunting film.



## Che: Parts One & Two

2008; 15; 253 mins; Directors: Steven Soderbergh; Cast: Benicio Del Toro, Benjamin Bratt, Demian Bichir, Kahlil Mendez, Rodrigo Santoro, Santiago Cabrera

I have an unread biography of Che Guevara by John Lee Anderson sitting on my book shelf. It was tempting to believe that by watching two movies on the socialist icon that I could plug the gaps in my knowledge of his life and times. Steven Soderbergh is a stylish director with a skilful use of cinematography in his varied cinematic career with movies as diverse as *Sex, Lies and Videotape* and *Ocean's Eleven*. His treatment of Che Guevara in two movies spanning four and a half hours was much anticipated

and did not disappoint.

The first movie intersperses flashbacks to Che's appearance at the United Nations in 1964 with his initial meetings with Castro and their comrades from 1956 to 1959. Their aim was to overthrow the decadent rule of the Cuban dictator Fulgencio Batista. There is a particular emphasis on matters of military strategy and tactics as Castro's small but dedicated army descended the Sierra Maestra mountains to ultimately prevail over Batista.

One of the most striking depictions in this movie is of Che's humility and self-sacrifice in conducting the 'march of the wounded' juxtaposed with the vanity of succumbing to wearing make-up for a televised speech! Another notable characteristic portrayed was his insistence that his men learn to read and write and maintain discipline, sending victorious troops back for

stealing a sports car. The main criticism is the lack of historical context at times, for example in not portraying the corruption of the Batista regime except for oblique shots in the opening sequence.

The second movie skips almost a decade to the rather less successful guerrilla campaign in Bolivia in 1967 that eventually led to Che's capture and death. It is at times painfully slow in its depiction of a doomed attempt to implement the Cuban model of revolution. The conditions were certainly ripe in Bolivia for a revolution – a high infant mortality rate, lack of food, and men under 30 dying in the mines, as well as the repression of strikes and no hospitals and schools for the poor.

However, Che's physical deterioration and the sense of mortality were well depicted. If you were a movie-goer who knew nothing about the Cuban revolution you would still sense the inevitability of (the initial) defeat in the unforgiving terrain of the Bolivian landscape and the

inability to transplant the Cuban model. Of course, Evo Morales has since prevailed with a different model of socialist revolution in Bolivia and has brought hope to many of the historically abused campesinos.

The audience is left somewhat ill-informed about Che's role in post-revolution Cuba and his time in the Congo though, admittedly, the scope of Soderbergh's subject matter was immense. Benicio Del Toro was certainly charismatic in his amazingly assured performance and was perfectly cast in this role both for his physical likeness to Che but also for his obvious dedication to mastering the complexities of the character in such nuances as the split between the family man and the military commander.

Soderbergh has stated that he is 'an agnostic' as far as Che is concerned and that he is not 'personally invested in building him up or tearing him down'. This is hard to believe and was perhaps directed at a sceptical American audience. Although there are obviously plenty of detractors and those who mock at the socialist icon who has become immortalised in t-shirts and posters around the world, Soderbergh is not one of those. It is hard to take a neutral stance on such a domineering figure. While one may criticise acts of summary justice and ruthlessness that were portrayed in the movies, one cannot criticise the idealism that shines like a beacon throughout both movies.

While I would wholeheartedly recommend these movies and believe they are vital viewing for any reader of *Socialist Lawyer*, I think that I will enjoy them more when I finish reading the biography and place them in their proper context. Asked in an American interview what the most important quality of a revolutionary was, Che's answer – 'love' – may strike many as surprising but it is this answer which, to me, was an insight into his most attractive trait.

● Declan Owens



## Marching to the Fault Line: The 1984 Miners' Strike and the Death of Industrial Britain

by Francis Beckett and David Hencke, £18.99

There are some historical events which immediately afterwards draw the interest of historians (the military events of the Second World War, the 9/11 attacks). There are other historical events that historians leave unexplored, sometimes for decades, before returning to them: the Holocaust, for example, or the miners' strike.

The authors of this history describe their narrative on the book's inside cover as 'the first full account of the strike', and while there have been books before which looked at women in the strike, the organisation of the miners, the activities of the Conservative government and the secret state in the strike, it is true that this is the first book since the strike's immediate aftermath that attempts to view it in its totality.

Indeed, there are points at which this is a useful account. Some of the few passages which describe the conflicts on the picket lines convey a shadow of the physical brutality which was used to defeat the striking miners. Beckett and Hencke also bring out the extent to which the media took sides in its coverage of the dispute, the extraordinary care that was put into covering violence against miners who defied the strike call, the press' indifference to people such as David Jones, a 24-year old strike activist killed during clashes between striking and working miners.

Beckett is a freelance journalist, long associated with 'old Labour': the author of a history of the Communist Party, in which the multiple activities of that organisation were reduced to its Moscow funding, and more

recently, a public champion of comprehensive education. Hencke is *The Guardian's* Westminster correspondent.

They have taken a journalists' approach to tracking the dispute: by that I mean that they have set out to interview at length the ministers in the Conservative government, traceable employees of the National Coal Board, Neil Kinnock, and surviving officials of the National Union of Miners. They record with sadness that they were unable to get access to Margaret Thatcher or Arthur Scargill.

They have also carried out certain Freedom of Information Act requests, the results of which are loudly trumpeted in the text. The most dramatic of their discoveries appears to be that several figures were involved in previously unpublicised attempts at negotiation, none of which came close to a settlement.

Beckett and Hencke appear to have made little attempt to consult the written records of the various organisations involved the strike: the NUM, NACODS, TUC, etc, whose records from this period are waiting in various university archives.

Lawyers who track down a copy of this book will be disappointed to see that there is relatively little discussion of the



novelty or legality of police tactics. The drama of the battles in the magistrates' courts between the miners' lawyers and the hostile courts is missing entirely from the narrative. There is relatively little even on the events of sequestration (although the NUM's parallel search for Russian or Libyan funding – an undoubted public relations catastrophe – gets a lengthy treatment in the text).

Like any good writer Beckett and Hencke bear their grudges; like the worst of the profession, they bear them vigorously against sources who decline to be interviewed.

The hero of this book, if anyone deserves the title, is Peter Walker, then Minister for Energy, who appears to have given Beckett and Hencke generously of his time. The authors portray him as diligent, well-informed, articulate and intelligent, more robust than his public image as a Tory wet, and sensible in his treatment of the dispute.

The villain of the piece is Arthur Scargill, whose perceived arrogance and indifference to his striking workers is used as the central explanation powering the narrative. What happened at the start of the strike? Arthur got it wrong. What happened at Orgreave? Arthur got it wrong. What happened to the various attempts mid-dispute at settlement? Arthur... and on, and on, and on.

In their preface, the authors explain that they made efforts to speak to Scargill, including driving to his home unannounced, but were not granted access. It may be that if Arthur Scargill had agreed to be interviewed for their book, the result might have been a text that was in a few places less unremittingly hostile to him and his supporters. But any neutral reader reading this text will surely be quite sympathetic to the miners' old leader. Given that a literary kicking was inevitable, it is a sign of good judgment that he left these authors well alone.

● David Renton

## Analysing the 'state' on solid ground



**Unmasking the State: A rough guide to real democracy**  
by Paul Feldman; Action Guide No.3, Lupus Books

Until very recently, many commentators and academic writers were telling us that so-called 'globalisation' was not only an entirely new phase of capitalism, having superseded imperialism, but also presaged the end of the sovereign state. The velocity of unregulated capital flows and the awesome power of multinational corporations were not only supposed to have initiated limitless economic growth, but also to have rendered national borders redundant. And the rewards individuals paid to themselves for managing this miracle surpassed all previous levels of obscenity. Serving the state seemed a very poor alternative. Witness Tony Blair's transmogrification from Prime Minister to – much better paid – banker.

Now, with the collapse of the sub-prime bubble, revealing the toxic slime at the heart of twenty first century capitalism, the state appears once more to be relevant, bailing out one bank and nationalising another. As multinational giants collapse on a global scale, the call is for the state to come to the rescue.

Paul Feldman's short book is therefore timely and welcome. This is not his first piece of trenchant analysis; he is an able and knowledgeable journalist. With Gerry Gold he has written *A House of Cards: from fantasy finance to global crash*, and,

with Corinna Lotz, *A World to Win: a rough guide to a future without global capitalism*. All are published by Lupus Press, the imprint of A World to Win, which is one of the more active Trotskyist groups in contemporary Britain. Or should it not be described as post-Trotskyist? – Trotsky is not mentioned once in Feldman's text, despite Trotsky's incisive writings on Britain and the British state around the time of the General Strike, especially in *Where is Britain Going?* (1925). Nonetheless, Feldman's text sets out to be resolutely Marxist, even Leninist.

This reviewer, by the way, does not claim complete impartiality. He has provided back-cover endorsements for the work now under review as well as for "A World to Win", and shares a political past with Feldman and his colleagues. But rest assured that Feldman's text has been read critically for readers of *Socialist Lawyer*.

One point on which there should be complete agreement with Feldman is his insistence that the state has an objective existence. Feldman is a realist and a materialist, and has no truck with social constructivism, now

so fashionable in academe, or the various currents of post-modernism. He takes his definition of the state from Engels and from Marx. Although it would have been helpful if the works cited were dated – and there is no list of works cited. The absence of an index is understandable, but the lack of a bibliography is much more serious, especially for those who wish to read further.

Nevertheless, a great merit of this book is its historical grounding. In his first chapter, 'The "mystery" of the state', Feldman provides an excellent survey of 'the making of the state' in Britain, through the Civil War, the so-called Glorious Revolution and the foundations of the Empire. For this he draws upon John Saville's remarkable study *The consolidation of the capitalist state 1800-1850*. Chapter two, 'The struggle for democracy', provides a gripping account of the Levellers' movement in the Civil War, and their intellectual monument, *An Agreement of the People* (1647). Feldman follows this story through the Radical movement of the late eighteenth century and Tom Paine's role through to the American and French revolutions; and the Chartists. He gives ample space to the Suffragettes, the trade unions, and the building of the welfare state.

These two splendid chapters in themselves make this book an excellent buy.

Chapter three traces the

creation of 'A market state' in Britain, through Thatcher's revolution, privatisation and marketisation, the role of the state in serving transnational corporations (TNCs), and the growing trend of authoritarianism and the 'Big Brother' state. This chapter does not break new ground; but the story is clearly told.

Chapter four is entitled 'The voice of the people', and starts with Lenin's analysis in his 1917 pamphlet *State and Revolution*. Feldman paraphrases Lenin as stating that 'the power of capital cannot be ended without reconstituting the state'. Actually, Lenin went a bit further. At the end of chapter one he proclaimed that: 'The supersession of the bourgeois state by the proletarian state is impossible without a violent revolution.' In Chapter two, Lenin sums up Marx's position as follows: 'all previous revolutions perfected the state machine, whereas it must be broken, smashed'.

This chapter and the final chapter, 'A way forward', contain acute criticisms of the work of John Holloway, *Change the World without Taking Power* (2002) and the runaway bestseller by Hardt and Negri, *Empire* (2000). Indeed, in the final few pages Lenin is once again cited (in a box) the passage from *State and Revolution* on the Paris Commune, '[...] to smash the old bureaucratic machine [...]'.

But Feldman does not use the language of 'breaking' and 'smashing'. The section 'Our proposals' starts 'We will be obliged to replace the existing administrative machinery' which does indeed sound much more polite than Lenin. As does 'the subordination of bureaucracy to society through accountability to Assemblies', and 'the state as a separate body can eventually be dispensed with'. This reviewer prefers the more direct approach of Marx and Lenin; but then we are in Britain, so perhaps Feldman is right to tread more softly!

● Bill Bowring



Lenin:  
"smash the state"



# **Haldane Society of Socialist Lawyers**

commemorates 25 years  
since the miners' strike

**Summer party / fundraising event**

at Garden Court Chambers, 57-60 Lincoln's Inn Fields,  
London WC2 (nearest tube Holborn)

**7pm to late, Thursday 23rd July**

Speakers will include Michael Seifert, John Hendy QC,  
Louise Christian, other lawyers, miners and journalists  
involved in the strike



Contemporary issues not forgotten: lawyers representing  
the G20 protesters will speak. Admission £10 practitioners,  
£5 concessions (drinks included in admission price)

**Further information [www.haldane.org](http://www.haldane.org)**