Inside:

DEFEND THE RIGHT TO PROTEST

INTERVIEW WITH GARETH PEIRCE

LEGAL AID: WOMEN DEMAND RIGHTS

‘T-PIMS’ – CONTROL ORDERS LITE?

CONSCIENTIOUS OBJECTORS AND THE UK MILITARY

and more...
News & comment ........................................... 4
Haldane talks, EDL in Luton, TUC in March, Blair’s legacy, Sedley’s send-off and more

Inquiringly like-minded ..................................... 11
Regular column from the Young Legal Aid Lawyers, with Connor Johnston

Kettling and criminalising protest .................. 12
Kat Craig on the use of increasingly violent and oppressive tactics by the police

Defending the right to protest .................... 16
Fiona McPhail on the recent rebirth of protest and the legal clampdown

Interview: Gareth Peirce ................................. 18
Majida Bashir and Yasin Patel talk to one of the Haldane Society’s Vice-Presidents

US flops after leaks show ......................... 23
Pablo Navarrete on WikiLeaks and the added strains on US-Latin America relations

Tunisia in revolt ........................................... 24
Russell Fraser reports from a delegation to meet groups at the heart of the revolution

Legal aid: women demand rights ............... 26
Catherine Briddick on an important new research report from Rights of Women

‘T-pims’: control orders lite? ...................... 31
Russell Fraser analyses the Government’s review of counter-terrorism

Conscious decision .................................. 34
Lois S. Bibbings looks at the rights of conscientious objectors within the UK military

Film and book reviews ................................ 37
Lula, the Son of Brazil, Ricin!, Claims of Innocence, and Abuse of Process

Editor: Tim Potter
Assisted by: Russell Fraser, Liz Davies, Anna Morris, Mike Goidl and Kat Craig
Cover picture: Jess Hurd (Report Digital)
Many thanks to all our other contributors, readers and members who have helped with this issue.
Mrs Whitehouse got a cheer as she told us that the best thing about her winning her appeal (which meant that she could stay in her home) was that the landlord had had to pay her legal costs, so that the public was not out of pocket. They were also clear that their problems – which were often complex and required dealing with numerous statutory bodies – could not have been resolved without legal aid. Public bodies – local authorities, schools, the Home Office – all benefit from legal advice. Unlike recipients of legal aid, those public bodies don’t get blamed for briefing expensive lawyers or creating litigation. Cutting legal aid makes the playing field even more unequal.

Other public sector workers – teachers, civil servants and (most importantly for us) Court staff – are being balloted for strike action on 30th June 2011 in defence of public sector pensions as I write. We hope that Haldane members will be able to support the strike and not cross picket lines. It’s tricky to balance our duties to our clients with our solidarity with Court staff and other public sector workers, but it’s one that health professionals, teachers and other public servants have to make all the time.

Away from the main demonstration on 26th March, 200 demonstrators peaceably occupied Fortnum and Mason and other retailers accused of tax dodging. The police seemed all sweetness and light: telling them they just had to wait until it was safe to leave. As the protesters left, they were surrounded, contained and arrested. Many of them spent over 24 hours in custody. The Court cases are on-going but their treatment highlights the need for committed legal observers. Cutting legal aid makes the playing field even more unequal.

Mrs Whitehouse got a cheer as she told us that the best thing about her winning her appeal (which meant that she could stay in her home) was that the landlord had had to pay her legal costs, so that the public was not out of pocket. They were also clear that their problems – which were often complex and required dealing with numerous statutory bodies – could not have been resolved without legal aid. Public bodies – local authorities, schools, the Home Office – all benefit from legal advice. Unlike recipients of legal aid, those public bodies don’t get blamed for briefing expensive lawyers or creating litigation. Cutting legal aid makes the playing field even more unequal.

Other public sector workers – teachers, civil servants and (most importantly for us) Court staff – are being balloted for strike action on 30th June 2011 in defence of public sector pensions as I write. We hope that Haldane members will be able to support the strike and not cross picket lines. It’s tricky to balance our duties to our clients with our solidarity with Court staff and other public sector workers, but it’s one that health professionals, teachers and other public servants have to make all the time.

Away from the main demonstration on 26th March, 200 demonstrators peaceably occupied Fortnum and Mason and other retailers accused of tax dodging. The police seemed all sweetness and light: telling them they just had to wait until it was safe to leave. As the protesters left, they were surrounded, contained and arrested. Many of them spent over 24 hours in custody. The Court cases are on-going but their treatment highlights the need for committed legal observers. Cutting legal aid makes the playing field even more unequal.

Mrs Whitehouse got a cheer as she told us that the best thing about her winning her appeal (which meant that she could stay in her home) was that the landlord had had to pay her legal costs, so that the public was not out of pocket. They were also clear that their problems – which were often complex and required dealing with numerous statutory bodies – could not have been resolved without legal aid. Public bodies – local authorities, schools, the Home Office – all benefit from legal advice. Unlike recipients of legal aid, those public bodies don’t get blamed for briefing expensive lawyers or creating litigation. Cutting legal aid makes the playing field even more unequal.

Other public sector workers – teachers, civil servants and (most importantly for us) Court staff – are being balloted for strike action on 30th June 2011 in defence of public sector pensions as I write. We hope that Haldane members will be able to support the strike and not cross picket lines. It’s tricky to balance our duties to our clients with our solidarity with Court staff and other public sector workers, but it’s one that health professionals, teachers and other public servants have to make all the time. 

Away from the main demonstration on 26th March, 200 demonstrators peaceably occupied Fortnum and Mason and other retailers accused of tax dodging. The police seemed all sweetness and light: telling them they just had to wait until it was safe to leave. As the protesters left, they were surrounded, contained and arrested. Many of them spent over 24 hours in custody. The Court cases are on-going but their treatment highlights the need for committed legal observers. Cutting legal aid makes the playing field even more unequal.

Mrs Whitehouse got a cheer as she told us that the best thing about her winning her appeal (which meant that she could stay in her home) was that the landlord had had to pay her legal costs, so that the public was not out of pocket. They were also clear that their problems – which were often complex and required dealing with numerous statutory bodies – could not have been resolved without legal aid. Public bodies – local authorities, schools, the Home Office – all benefit from legal advice. Unlike recipients of legal aid, those public bodies don’t get blamed for briefing expensive lawyers or creating litigation. Cutting legal aid makes the playing field even more unequal.

Other public sector workers – teachers, civil servants and (most importantly for us) Court staff – are being balloted for strike action on 30th June 2011 in defence of public sector pensions as I write. We hope that Haldane members will be able to support the strike and not cross picket lines. It’s tricky to balance our duties to our clients with our solidarity with Court staff and other public sector workers, but it’s one that health professionals, teachers and other public servants have to make all the time.

Away from the main demonstration on 26th March, 200 demonstrators peaceably occupied Fortnum and Mason and other retailers accused of tax dodging. The police seemed all sweetness and light: telling them they just had to wait until it was safe to leave. As the protesters left, they were surrounded, contained and arrested. Many of them spent over 24 hours in custody. The Court cases are on-going but their treatment highlights the need for committed legal observers. Cutting legal aid makes the playing field even more unequal.
Will the Lib Dems save the Human Rights Act?

On 19th January, Conor Gearty delivered the first of The Haldane Society’s Human Rights lecture series for 2011. The lecture offered up much food for thought. The topic up for discussion was ‘the Coalition Government, civil liberties and the law’, a subject addressed by Conor in Socialist Lawyer 57.

Conor’s lecture was a robust defence of the Human Rights Act 1998 against myths propagated by the popular and right-wing press and Conservative proposals, driven by libertarian elements within the Tory party, for a so-called British Bill of Rights. Conor relayed an anecdote of a former child soldier who had been invited along to meet David Cameron at the launch of the Conservative Party’s human rights report.

Having seemingly not been briefed by Tory press aides, the former child soldier unwittingly caused embarrassment to David Cameron and Tory party policy by thanking the Prime Minister for being neutral towards anti-fascists. Conor predicted that before Christmas 2011 we should expect further pressure on any Liberal Democrat stance against counter-terrorism legislation in Ireland. Conor predicted that before Christmas 2011 we should watch out for an Olympic terrorism story which would serve to exert further pressure on any Liberal Democrat stance against far-reaching counter-terrorism legislation. Those who saw the front page of the Evening Standard on 31st March 2011 would have noticed that this Olympics scare story arrived somewhat earlier than Conor had predicted.

Conor queried future Liberal Democrat commitment to maintaining the Human Rights Act, citing the lack of Liberal Democrat indication when it came to the policing of the student protests in autumn 2010 and the dilution of their previously firm position against Control Orders.

Recalling his own experience of the interplay between the press, terrorism scares and the enacting of counter-terrorism legislation in Ireland, Conor predicted that before Christmas 2011 we should watch out for an Olympic terrorism story which would serve to exert further pressure on any Liberal Democrat stance against far-reaching counter-terrorism legislation. Those who saw the front page of the Evening Standard on 31st March 2011 would have noticed that this Olympics scare story arrived somewhat earlier than Conor had predicted.

Anti-EDL protest in Luton raises wider questions

The English Defence League (EDL) returned to Luton, the location of its founding, on 5th February, to protest against what it claims to be Islamic Extremism. Previous EDL demos have descended into violence, with minority communities being targeted by marauding gangs of football hooligans and assorted fascists intent on causing as much damage as possible.

When counter-demonstrations against the EDL have taken place in the past, the danger to anti-fascists has tended to come not just from the EDL, but also from the police. Despite their claim to be neutral peacekeepers, the police have acted in a consistently heavy-handed and intimidating manner. It was in this context that The Haldane Society and the Legal Defence & Monitoring Group sent legal observers to monitor the policing of the Unite Against Fascism (UAF) counter-demonstration in Luton’s Park Square.

Right from the outset it was clear that anti-fascists would not be allowed to exercise their freedom to protest unhindered. A heavy police presence, including dogs and horses, surrounded the railway station well before any UAF protesters arrived.

When they did arrive, UAF demonstrators managed to block the arrival of EDL members by train for over an hour. When the police decided to clear the station, they crushed demonstrators against walls and ticket gates, and then, once outside the station, corralled them with horses into Park Square. On two occasions a large number of people left the main demonstration in Park Square. Each time the police response involved kettling – ‘for your own safety’ – and indiscriminate assaults.

The treatment meted out to legal observers was varied. Although legal observers were able to pass through police lines, some officers acted in an aggressive manner, at times attempting to intimidate with the use of ‘evidence gathering’ video cameras, and using physical force to prevent the observation of assaults on protesters.

One redeeming feature of the police’s conduct was that it never fell to the level that protesters have come...
Sedley’s rousing send-off

The farewell to Sedley, which he described as an ‘interlocutory funeral oration’, on his last working day, 30th March 2011, was a great occasion, although it could hardly do justice to a judge of such stature. By 9.30, all the benches in the Lord Chief Justice’s court, Court 4, were packed, mostly with fully robed barristers. At 9.45, dozens of judges trooped in, bare-headed but wearing their colour-coded designer bands, yellow for Court of Appeal, red for puisne judges. Then, the Lord Chief came in, flanked by other senior judicial figures, with Lord Justice Sedley at his side.

The Lord Chief kicked off with some of Sedley’s ‘laws of documents’ (reproduced right), before paying tribute to Sir Stephen’s passion for justice and his contribution to the rule of law. Michael Beloff QC, Sir Geoffrey Bindman and I spoke on behalf of the senior and junior bar and solicitors respectively, and Sir Stephen made a typically amusing and self-deprecating reply. He recalled that the route of his first Aldermaston march, when he was 19, took him past a lovely cottage with roses round the door. ‘Over 50 years later’, he observed, ‘the bombs are still there but I live in the cottage’.

Sir Stephen’s retirement leaves a huge, gaping hole in the higher judiciary. His combination of courtesy, dry wit, ferocious intelligence and humanity, his courage in frequently standing alone as a dissenter, his refusal to defer to executive claims or to be corrupted by ambition or political influence, his intellectual honesty, and his determination to ensure that unpopular minorities – whether defined by race, gender, class or way of life – are accorded respect and procedural and substantive justice – make him irreplaceable on the bench. He has been an enormously creative judge, using the common law to protect fundamental rights before the Human Rights Act and using administrative law principles to ensure obedience to principles of common humanity.

We have Sir Stephen, among others, to thank for the mainstreaming of ‘alternative’ law and lawyers – the law centre movement (Sir Geoffrey Bindman reminded us of his role in the founding of Camden Law Centre), poverty, welfare, human rights and civil liberties lawyers.

If the rule of law remains robust today, it is in large measure through his efforts. Sir Stephen, together with Lawrence Kaplan, compiled and edited Leveller John Warren’s pamphlet A Spark in the Ashes. Both in practice and on the bench, he has sought to live out, and to make good, the title of Leveller John Warren’s pamphlet: The Corruption and Deficiency of the Laws of England Soberly Discovered. In doing so, he has inspired generations of lawyers.

* Frances Webber

24: Julian Assange, the founder of WikiLeaks, loses a hearing against his extradition to Sweden. Immediately after the hearing at Belmarsh Magistrates’ Court, Assange said he would appeal.

24: The Home Office releases figures, which reveal a sharp drop in stops and searches under counter-terrorism law. In July 2010, the Home Secretary discontinued the use of Section 44 of the Terrorism Act 2000 for individuals. In the year ending September 2010 there were 45,932 stops using the power. In the previous 12 months there had been 200,775.

24: Public Interest Lawyers launches a legal challenge against Gloucestershire and Somerset councils about their planned library cutback. The councils were informed that an application for judicial review would be lodged. The Public Libraries and Museums Act 1964 obliges local authorities to provide a comprehensive and efficient library service for everyone wanting to use it.
The questions sent by the Chilcot Inquiry to Tony Blair make crystal clear the key issues on which the report will focus.

In the run up to the war these include: the timing, nature and extent of commitments given to President Bush; the preparation and presentation of intelligence; the circumstances of the decision to return to the United Nations; the role of the Attorney General and the effect of his legal advice at various stages; the role of the cabinet; and the presentation of information to Parliament and the public.

Mr Blair’s responses to those questions are, to put it charitably, elusive and less than complete. But once the fluff is stripped away, [his] defensive testimony, the written answers and the totality of the evidence before the tribunal points to a simple story: the Prime Minister took an early decision to support President Bush in the quest to remove Saddam, assured him repeatedly of his unequivocal statement of support, ignored the law, and deprived the cabinet and Parliament of key information.

In short, Mr Blair managed to skilfully lead the entire machinery of Government – Attorney General, cabinet, Parliament – into a place from which British involvement in the war became inevitable.

Mr Blair has paid a big price for delivering his commitment to President Bush: his legacy is an unlawful and disastrous conflict that continues to cause misery and claim lives, shredding public trust in Government, diminishing Britain’s role in the world, and undermining the rule of law. To the Chilcot Inquiry falls the task of picking up the pieces.

Philipe Sands QC is professor of law at University College London and a barrister at Matrix Chambers. This article first appeared in The Guardian on 21st January 2011 and is reprinted here with the author’s permission.

British forces in Iraq must be fully accountable for deaths and treatment banned by the UK Government in the 1970s, namely hooding, stressing, sleep deprivation, food and water deprivation and the use of noise.

He further highlighted that knowledge of this torture reached medics, padres and the Royal Military Police. Yet nothing was resolved, even after the death of Baha Mousa. The families represented by Shiner are searching for accountability for the abuse.

The lecture provided numerous examples of some of the abuses suffered by the Iraqis in the custody of UK forces and some of the riveting legal issues Phil Shiner and his team came across.

Two short videos were played showing torture techniques used which showed British soldiers utilising methods such as hooding and making references to food and water deprivation. One of the videos showed the treatment of Baha Mousa, who sustained 93 injuries while in the custody of the 1st Battalion the Queen’s Lancashire Regiment in Basra in 2003. His death and the abuses of nine other Iraqi men are subject to a major public inquiry, which will publish is due to publish its findings in May 2011.

Phil was clear that the excuses of ‘just a few bad apples’ or ‘the heat of battle’ cannot be relied upon to defend the actions of those involved. He relayed how the methods of interrogation were taught, trained and were standard procedure for those in custody. Such techniques used against Iraqi detainees are reminiscent of the methods of interrogation used against Iraqi detainees.

Tony Blair: “His legacy is an unlawful and disastrous conflict” says Sands

March

2: The US Supreme Court rules that the First Amendment protects hateful protests at military funerals. Chief Justice John G Roberts Jr said that the national commitment to free speech extended to ‘even hurtful speech on public issues to ensure that we do not stifle public debate.’ The case was brought after members of the Westboro Baptist Church in Kansas attended military funerals with signs with messages like ‘America is Doomed’ and ‘God Hates Fags’.

3: The International Criminal Court (ICC) will investigate Muammar Gaddafi and his closest associates for possible war crimes. The ICC prosecutor, Luis Moreno-Ocampo, alleges that Libyan security forces have attacked peaceful demonstrators in several towns and cities since trouble began on 15 February. Moreno-Ocampo said he was putting the Libyan command ‘on notice’.

3: The Sun and The Daily Mail are found guilty of contempt of court after they published pictures of a murder defendant posing with a gun on their websites. The ruling was described as a landmark for internet publishing in which the High Court said the pictures had created a ‘substantial risk’ of prejudicing the trial of Ryan Ward in November 2009.
Zimbabwe trials protest

In June of this year, six Zimbabwean activists, Muyaradze Gwisai, Tafadzwa Antonater Choto, Tatenda Mombeyarara, Edeson Chakuma, Hopewell Gumbo and Welcome Zimuto are due to stand trial on treason charges.

Under the Zimbabwean Criminal Code, treason carries either the death penalty or life imprisonment. The allegation is that the activists watched videos of protests in Egypt and Tunisia taken from the Al-Jazeera channel as a prelude to discussing plans to subvert the constitutionally elected Government. Originally, 45 people were arrested, although charges have been dropped against 39 of the defendants. Demonstrations in Johannesburg, Durban, London and Chicago have called for the charges to be dropped.

David Renton

Coalition takes unequal stance

The Equality Act was one of the last measures to be enacted under the Labour Government. The Act sought to harmonise existing legislation and clarify the definitions of discrimination, harassment and victimisation. It seeks to provide a uniform approach to providing protection for nine ‘protected characteristics’. They are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation. The Act also sought to provide some more transformative powers: powers that can actually help realise equality for a person with a protected characteristic. For example, positive action and stronger provisions on public sector equality duties. Part 1 of the act also provided for a public sector duty regarding socio-economic inequalities. It had been described as, ‘a major landmark in the long struggle for equal rights,’ by Bob Hepple in Equality The New Legal Framework.

I need not rehearse here the dire need for effective and stronger provisions on public sector equality duties. Part 1 of the act also provided for a public sector duty regarding socio-economic inequalities. It had been described as, ‘a major landmark in the long struggle for equal rights,’ by Bob Hepple in Equality The New Legal Framework.

William Dooley

torture claims

suffered whilst their relatives were in the custody of UK forces. Such accountability is yet to be found. The difficulties in jurisdiction, the convenient ‘loss’ of evidence and the apparent difficulty the British public has in accepting that UK forces are to blame in this instance, make the task taken on by Phil Shiner to expose these abuses a challenging one.

David Renton

News & Comment

9: A hunt saboteur wins a claim for unfair dismissal after a court found his anti-hunting beliefs should be protected from discrimination in the same way as religion. Joe Hashman said he had been sacked from his job as a landscape gardener after his bosses realised his views. The judge said Hashman’s stance was akin to a ‘philosophical belief’.

15: The Government announces its plans for reform of libel law which it said would bring to an end so-called ‘libel tourism’. The new bill includes a public interest defence and requirement that claimants show substantial harm before they can sue. The Libel Reform Campaign welcomed the bill but said the Government needed to go much further.

26: Crowds of around 500,000 march from Embankment to Hyde Park to protest against the coalition Government’s programme of cuts. The march organised by the TUC attracted people from across the public sector and beyond. The Halal Sausage and Young Legal Aid Lawyers both joined the demonstration.

30: The House of Commons justice select committee warns against the impact of proposed cuts to legal aid. It criticised the Government’s plans to restrict financial support in family disputes to only those in which physical violence was alleged. It also said poorer and more vulnerable groups would be hit hardest.
Unison activists’ victory – against their own union

In spring 2009, Socialist Lawyer reported the complaint of four shop stewards of the public sector workers’ union Unison – Glen Kelly, Onay Kasab, Brian Debus and Suzanne Muna – that they had been unjustifiably disciplined by their union. The four were banned for between two and three years each from holding positions within the union, after they criticised the Standing Orders Committee at their union’s 2007 National Conference for prohibiting the discussion of motions that called for strike action or the election of union officials or were critical of New Labour’s public services reforms.

Unison’s ostensible reason for disciplining its members was that a cartoon in the stewards’ leaflet criticising the Standing Orders Committee and comparing that Committee to three wise monkeys who neither see, hear nor speak evil was racist.

After a seven-day hearing at the end of 2010 the Tribunal would understand the cartoon to be saying that the Standing Orders Committee was out of touch and closing its mind to and ignoring issues that concerned the membership. The cartoon was not a pictorial depiction of the members of the Committee but a representation of the Committee’s attitude towards motions that were submitted to it.

Employment Judge Muna described the evidence from Unison as inconsistent and incredible. Unison argued that the members had to be disciplined as it was important to combat not just racism but the possible perception of racism. Yet before taking action the union had failed to discuss the matter with its Black Members’ Committee.

Unison has since announced that it will appeal the decision.

The case is interesting for the light it sheds on union attitudes towards the Employment Tribunal. The context, as has been reported in previous issues of Socialist Lawyer, is that the Government has been consulting on changes to the Tribunal rules which will make it harder for workers to bring complaints to the Tribunal. These changes include the introduction of issuing fees for Tribunal claims and a two year minimum service requirement before employees can bring complaints of unfair dismissal.

As in all other areas of law, litigation is becoming more expensive, and this is of particular concern to trade unions in particular, as members are often recruited on the belief that the union will provide free legal advice and representation for them. Given that a typical union member will contribute something like £10 of their membership fees per year to the union’s legal budget and given that a typical member might remain with the union for 20 years; it is obvious that every Tribunal claimant already takes more from the union’s collective resource than they can expect to contribute over a lifetime’s membership. With the Government’s proposals, this imbalance is likely to get worse.

All unions are becoming more restrictive in the cases they fund. In these circumstances it is particularly important that unions are seen not to operate double standards. If for example the union will only fund meritorious claims, the merits threshold should be the same whether the union is the claimant or the respondent.

On the face of it, the Tribunal’s decision is a resolutely factual decision which discloses no obvious error of law. An appeal would presumably be on grounds of perversity, which would appear to have relatively low prospects of success. In these circumstances, the Unison stewards are quite understandably asking: would the union be funding an appeal, of equal merits, where the losing party was a union member rather than the union itself?

David Renton

April

5: Four survivors of Kenyan detention camps operated in the 1950s by colonial authorities bring a case to the High Court. Documents detailing repression used by the British army against Mau Mau rebels are to be revealed, including allegations of systematic torture. The four are seeking compensation from the UK Government.

9: A study of judicial rulings in Israel finds that judges are more lenient after taking a break. Jonathan Lavav of Columbia University who contributed to the study said: “You are anywhere between two and six times as likely to be released if you’re one of the first three prisoners considered versus the last three prisoners considered.”

May

2: Osama Bin Laden is killed by US Navy Seals after they tracked him to a hideout in Pakistan. President Obama’s announcement was followed by conflicting accounts of what actually took place in the compound. Some have called for an inquiry amid fears the operation amounted to a targeted assassination, illegal under international law.
Accountability needed for private security firms

In the wake of the student protests and more recently the aftermath of both the TUC March for the Alternative and the anti-Tesco rioting in Bristol, many questions have rightly been raised about police powers and tactics. These questions are timely and important. However, while we consider them we should also question the powers of private security guards.

Last year saw the deaths of Aaron Bishop, who was killed in a struggle with Debenhams’ security guards, and Jimmy Mubenga, an Angolan asylum seeker who died after he was forcibly restrained by G4S guards employed by the UK Border Agency. A few days after Mr Mubenga’s death, The Guardian reported that José Gutiérrez, another asylum seeker, needed hospital attention after being escorted onto a flight by G4S guards.

The Private Security Industry Act 2001 requires guards to be licensed, but beyond this there is little regulation of the industry.

The license system is designed to check the background of guards and to ensure they are trained to deal with conflict situations. However, during his trial, the guard accused of killing Mr Bishop testified that he had not been trained in restraint techniques despite being authorised to use them on the public.

Private security guards do not have the same range of powers as the police, but can employ ‘reasonable force’ to protect property or members of the public. This appears innocuous enough but in practice it means employers or individual guards can forcibly implement any policy they see fit regardless of how unreasonable or discriminatory it is. For example, guards working in a shop can forcibly remove anyone they ask to leave for any reason. The onus is then on the member of public to demonstrate the force used was unreasonable if they wish to challenge their treatment.

This is particularly worrying as, unlike the police, private security guards have no accountability. Guards are not subject to codes of practice and do not have any central governing body or complaints mechanism. Further, guards are not required to provide any form of identification when challenged.

Such unchecked authority is very dangerous and ought to be thoughtfully reviewed, especially in the light of the increasing privatisation of public spaces.

Kerenza Davis

New campaign launched to fight legal aid cuts

Justice for All is a coalition of charities, legal and advice agencies, trade unions and community groups. The group has been created to campaign against the proposed cuts to legal aid. Justice For All has over 3,000 members of which The Haldane Society is one.

The Government received over 5,000 responses to the consultation on the Ministry of Justice Green Paper on cuts and reform of the legal aid system, which closed on 14th February 2011. Approximately 1,000 of the responses followed the Justice For All templates. At the time of writing this, we are currently waiting for the Government’s response which they have indicated will be published sometime in May 2011.

The Justice Select Committee scrutinises the work of the Ministry of Justice and the Government should respond to their reports and recommendation within 60 days. The Justice Select Committee have published a report on the Green Paper proposing legal aid reforms. The report raises several concerns about the impact of the changes on vulnerable groups. It also requests the Government reconsider ways in which money can be saved and better evaluate the impact of the cuts before implementing them.

Justice For All members formed part of the Trade Union Congress organised demonstration on 26th March 2011, in London, against the Government cuts. Over half a million attended, and Justice for All members participated to stand up for free legal advice as a vital public service.

Justice for All’s next big campaign is the ‘Day of Action’ on Friday 3rd June 2011. This is an opportunity to continue campaigning against the legal cuts, especially since we are eagerly awaiting the response to the Green Paper. Ideas include having a demonstration at the Supreme Court or Royal Courts of Justice and one regional campaign. For more information and to participate in the campaign by using Justice For All’s material, to show it is a national movement, please visit www.justice-for-all.org.uk/Take-part

Kerenza Davis

If you go to the pub and order a pint of John Smith’s but they are out of Smith’s and you choose a pint of Guinness instead, you’ve still only had one pint!

Labour’s Will Straw tries to explain AV but seems to have had one too many.
On the march for an alternative

At its annual congress in September 2010, the Trades Union Congress (TUC) called a national demonstration for 26th March 2011, in response to the Coalition Government’s comprehensive spending review and its attendant implications for public sector jobs and services.

The TUC’s leadership called for a broad campaign involving workplace branches working alongside community groups and service providers. At the same time local anti-cuts groups had been springing up across the country.

The TUC represents some 6.2 million workers in 58 affiliated unions and in the weeks running up to the 26th March, it became apparent that the ‘March for the Alternative – for growth jobs and justice’ would be huge.

Trade unions were encouraged to organise transport on behalf of their members and hundreds of coaches and many trains were fully booked weeks in advance.

Furthermore, accessibility was prioritised with careful plans made to enable disabled people – one of the many groups to be acutely affected by the cuts – to be able to join the march.

The march was indeed huge, conservative estimates by the organisers, confirmed by the police, were that 250,000 were present, while others were clear that the numbers were more in the region of up to 500,000.

The Embankment was packed and awash with banners and a number of feeder marches joined the main body including students whose own high profile protests last Autumn had given confidence to the emerging anti-cuts movement. Others marched together from their own communities such as Camden and Lambeth.

The Haldane Society had arranged to meet up with the Public and Commercial Services’ Union (PCS) whose members are amongst those facing the loss of their jobs as a result of court closures, with Young Legal Aid Lawyers and Access to Justice campaigners. Mike Mansfield QC gave a speech outside the Royal Courts of Justice during the morning, highlighting, amongst other things, the impact on the justice system as a result of cutting public funding.

Many members however simply couldn’t find the banner due to the sheer numbers assembling around the Temple.

Sections of the media inevitably focussed on direct action taken during the day elsewhere but it was abundantly clear that this was the largest union demonstration the country has seen in a generation.

Indeed, the sheer potential that the trade union apparatus has to mobilise, energise and facilitate the expression of ordinary people’s anger at what is being implemented by the Coalition and which was given no mandate at last May’s general election will remain of key importance as the cuts begin to bite.

John Hobson
Inquiringly like-minded

One of the difficulties when campaigning for legal aid is trying to persuade people of its value. As legal aid lawyers we frequently make the task harder for ourselves, with talk of ‘scope’, ‘eligibility’, ‘matter starts’ and ‘best value tendering’: dry, impersonal jargon that distances legal aid from everyday experience.

It was with this in mind, nearly a year ago, that The Haldane Society and Young Legal Aid Lawyers started making plans to convene a Commission of Inquiry into the case for legal aid. The centrepiece of the Inquiry was an oral evidence session, open to the public, which took place in Parliament on 2nd February 2011. Testimony, as to the importance of legal aid, was presented to an independent panel consisting of former Liberal Democrat MP Evan Harris, the canon of Westminster Abbey, the Reverend Professor Nicholas Sagovsky and Diana Holland, assistant general secretary of Unite. This testimony comprised of stories from ordinary people who had benefited from legal aid. Stories accessible to the public, free from civil service-speak. Stories like that of 18 year old Subera:

‘My mother told me that she had become so sick that she could not care for my sister any more. There were no other family members who could take my sister in and already some family members were talking of marrying my sister off… My mother asked me if I would care for my sister and I said that I would. At first I tried to hide the fact that my sister was living with me… In the end I had to tell the people at the housing scheme about my situation. They told me that if I wanted to live with my sister I would have to leave. There was no way I could abandon my sister, so I was given one week to leave my home. Subera is a young Bangladeshi girl from East London. She was helped by Tower Hamlets Law Centre when her local authority refused to house her and her 12 year old sister. She was one of five people who gave oral evidence to the Commission of Inquiry in a packed room in the House of Commons.

The others included a young woman (‘EP’) who, with the assistance of counsel to the inquiry Michael Mansfield QC, spoke of how legal aid helped her escape from her abusive husband. In turn, Zoe Kealey told the story of her brother Darwin who was found dead in his cell in Wormwood Scrubs a little over 48 hours after he was taken into police custody. The result, the inquest found, of the repeated failings of Serco, the Police and the Primary Care Trust. He was aged only 28. A young man called Stephen spoke of how legal aid helped him gain contact with his children after an acrimonious split with his wife. Finally, doughty prisoner Patricia Whitehouse described how, with the help of legal aid, the Court of Appeal ended her unscrupulous landlord’s attempts to evict her from the house she had lived in since the 1950s. The panel is now considering this testimony together with a large body of written evidence both for and against the current legal aid system, with a view to producing a report very soon.

In the meantime these stories clearly illustrate the devastating effect of the Government’s proposed cuts to legal aid. Stephen would certainly not get legal aid for his divorce case and would likely still be separated from his children. Mrs Whitehouse, whose landlord offered her a lesser property in a different community, would not be eligible as she would not have been homeless. The exceptional funding criteria are to be made more stringent, with the possibility that legal aid will not be available for inquests such as that of Darwin Kealey’s. EP would not get legal aid as she did not have the right type of ‘objective evidence’ that her husband was abusing her. Of the five, it is only Subera who could be sure of getting legal aid if the proposals are implemented, and this of course will only be possible if Law Centres such as that in Tower Hamlets are somehow able to subsist.

The Government’s response to the legal aid consultation is expected over Easter with a draft bill to follow. As the bill begins its passage through Parliament it is vital that these stories are told.

Connor Johnston is a paralegal at the Howard League for Penal Reform and an executive committee member of Young Legal Aid Lawyers

15: Iran authorities postpone the sentence of a man who threw acid in the face of a woman who spurned his marriage proposals. Majid Movahedi was due to be anaesthetised so that his victim, Ameneh Bahrami, could drop acid into his eyes rendering him blind. Human rights groups had called on the Iran Government to intervene following the court ruling.
Kettling and the criminalisation of protest
Protest is back! From student anger against tuition fees to the half a million marching against the ConDem cuts, people are back on the streets. But the police and the courts are responding, as Kat Craig and Fiona McPhail report...
Protest has been a counterweight to oppression throughout history and has been a crucial method by which the voiceless have expressed their opposition, leading to some of the most significant developments in society. In this context, it comes as no surprise that protest has always been met with draconian repression by governments, gripped with the fear of popular uprisings and intent on retaining their wealth and position. In the current climate of all-pervasive funding cuts, opposition has increasingly been voiced in terms of a broader campaign for wider social justice, rather than individual struggles. This escalating and, most importantly, collective nature of the recent protests is what those in power fear and repress most.

Whilst not new, perhaps the most controversial police tactic used to quash dissent is the widespread use of the containment of protesters, popularly known as ‘kettleing’. The law as it stands allows the police to kettle protesters in specific circumstances. In 2009, the House of Lords, in *Austin v The Commissioner of Police of the Metropolis Austin* [2009] 1 AC 564, found that the cordon imposed around protesters in Oxford Circus for approximately seven hours on May Day 2001 was lawful. The Court held that ‘crowd control measures’ would be permitted in law if they were resorted to in good faith, were proportionate and were enforced for no longer than was reasonably necessary.

The specific issue before the Lords was, first, whether Article 5 of the Convention, which protects the right to liberty, was engaged, and, second, if so, whether the interference with this right could be justified. The Lords did not specifically address the issue of whether the containment was lawful at common law, because it was accepted by the parties that if Ms Austin’s detention was an unlawful deprivation of liberty contrary to article 5(1) of the Convention, the Court of Appeal’s finding that this was a lawful exercise of breach of the peace powers at common law could not stand, and vice versa.

However, the Lords found that Article 5 was not engaged, thereby conveniently obviating the need to consider the second question of whether any interference was justified. The question was circumvented by the Court concluding that the kettle imposed was a restriction of movement and not a deprivation of liberty. For the purposes of this case, the crucial difference between the two is that Article 2 Protocol 4 of the Convention, which defines the restriction of movement, has not been ratified by the United Kingdom, nor are the rights that it sets out among the Convention rights within the meaning of the Human Rights Act 1998.

By looking at paradigm cases the Court identified a list of factors which should be taken into account when distingushing between a restriction on freedom of movement and
a deprivation of liberty. These factors include the duration, effects and manner of implementation of the measure in question. The police’s case was that, in addition, the purpose of a measure could also be taken into consideration when determining whether Article 5 was engaged.

Ms Austin argued that the question of purpose only became relevant when considering the exhaustive list of permitted restrictions on liberty set out in Article 5(1)(a) to (f), not at the initial stage of assessing whether or not Article 5 was engaged. Ms Austin was unsuccessful, and the Court found that the purpose of containment was relevant to whether Article 5 is engaged. In this case, the purported purpose was to prevent personal injury and damage to property.

The question of whether or not the purported purpose of the imposition of a kettle can be taken into consideration when determining the applicability of Article 5 is currently being challenged in the European Court of Human Rights, and a hearing has been listed in the Grand Chamber in September this year.

If Strasbourg does accept Ms Austin’s arguments regarding the ‘purpose’ point, it is difficult to see how they will find in the UK’s favour overall. The list in Article 5(1) (a) to (f) of the cases where deprivations of liberty are permitted is exhaustive and is to be narrowly interpreted (as the European Court of Human Rights has repeatedly emphasised). No reference is made in Article 5 to the interests of public safety or the protection of public order as one of the circumstances in which a person may be deprived of his liberty. This is in sharp contrast to, for example, Article 10(2), which expressly qualifies the right to freedom of expression in these respects.

In the interim the police appear to have misconstrued the restrictions imposed on the use of kettling, treating the judgment as a carte blanche to deploy kettles more broadly than ever before. Her Majesty’s Inspectorate of Constabulary’s report of July 2009, commissioned in response to widespread criticism of kettles imposed during the G20 protests, noted that the tactical plan for containment failed to ‘explicitly address the legal criteria set out in the [House of Lords judgment] regarding the use of containment as a crowd control measure, and it is not apparent (...) that all commanders were familiar with the criteria that had to be met.’

The ‘stringent requirements’ set out in Austin were re-emphasised in the recent case of R on the application of Moos and another [2011] EWHC 957 (Admin) where the High Court found that the police acted unlawfully in the way they kettled protesters participating in the Climate Camp at the G20 demonstrations in 2009, because there was no risk of imminent breaches of the peace sufficient to justify full containment at the Climate Camp. Whilst the judgment does not prohibit the use of kettling per se, it demonstrates that the courts are prepared, in certain circumstances, to hold the

“The question of whether or not the purported purpose of a kettle can be taken into consideration when determining the applicability of article 5 is currently being challenged in the European Court of Human Rights, and a hearing has been listed in the Grand Chamber in September this year.”
Protest is on the agenda again. From the revolutions in the Middle East, to the student protests against tuition fees in late 2010, the TUC-organised ‘March for an Alternative’ and most recently the riots in Stokes Croft in Bristol against Tesco, crowds of people are taking to the streets in order to express their anger against a general sense of injustice, whether that be the cuts to jobs and services or repression by tyrannical regimes.

While these protests are incredibly inspiring, they have been followed by heightened State repression. The recent waves of student demonstrations against the increase in tuition fees and the abolition of the EMA have led to the arrest of many students and school pupils. Those students arrested and charged have faced allegations including Breach of the Peace, Violent Disorder and Criminal Damage. Some of these offences carry lengthy sentences. In the case of Criminal Damage it can be up to ten years’ imprisonment. Many of those involved in the student demonstrations had never been on a demonstration, let alone witnessed hostile police tactics.

The events which unfolded during the autumn student protests and more recently at Trafalgar Square on 26th March 2011 have seen the resurgence of the debate on what constitutes legitimate protest, and conversely what powers the police should have to control public protest. The emphasis in the media and amongst the political elite has been on the criminal damage caused and the ‘violence of a minority’. The challenge is now for lawyers to protect the right to protest and where possible question the legitimacy of the powers used to undermine it.

Protest is on the agenda again. From the revolutions in the Middle East, to the student protests against tuition fees in late 2010, the TUC-organised ‘March for an Alternative’ and most recently the riots in Stokes Croft in Bristol against Tesco, crowds of people are taking to the streets in order to express their anger against a general sense of injustice, whether that be the cuts to jobs and services or repression by tyrannical regimes.

While these protests are incredibly inspiring, they have been followed by heightened State repression. The recent waves of student demonstrations against the increase in tuition fees and the abolition of the EMA have led to the arrest of many students and school pupils. Those students arrested and charged have faced allegations including Breach of the Peace, Violent Disorder and Criminal Damage. Some of these offences carry lengthy sentences. In the case of Criminal Damage it can be up to ten years’ imprisonment. Many of those involved in the student demonstrations had never been on a demonstration, let alone witnessed hostile police tactics.

The events which unfolded during the autumn student protests and more recently at Trafalgar Square on 26th March 2011 have seen the resurgence of the debate on what constitutes legitimate protest, and conversely what powers the police should have to control public protest. The emphasis in the media and amongst the political elite has been on the criminal damage caused and the ‘violence of a minority’. The challenge is now for lawyers to protect the right to protest and where possible question the legitimacy of the powers used to undermine it.

In the UK the right to protest has traditionally been defined as a negative liberty. In other words protest was per-
mitted insofar as it was not prohibited by law. This inevitably led to competing interests such as property rights or the prevention of crime trumping protest rights.

The right to protest remains weakened in three key respects. First, as a result of legislation passed under the guise of combating terror, anti-social behaviour and other criminal activity. Secondly, it is undermined by the way in which the police exercise their statutory powers and finally, it is undermined by the inconsistency of the case law emanating from the courts.

An area of great concern facing protesters is the ambiguous nature of many of the terms used to criminalise their activities. The rule of law requires protesters to know whether their actions or words would incur criminal liability and it is arguable whether terms commonly found in charges that protesters face such as ‘disorderly’, ‘disruptive’, ‘anti-social’ or even ‘violent’ satisfy this requirement.

At the same time this ambiguity gives greater deference to the police. So, for example, we saw the stop and search powers under Section 44 of the Terrorism Act 2000 (since repealed), the use of which did not require police officers to have reasonable suspicion before deciding to search, used to stop, search and limit the movement of protesters and Public Order legislation used to justify the practice of ‘kettling’. Occasionally such practices are successfully challenged in the courts, but the harsh reality is that the majority of people stopped, searched, arrested or kettled will neither know their rights nor have the opportunity to exercise them.

The criminal courts have recently had the opportunity to consider the lawfulness of police actions in the context of demonstrations. In the criminal courts, some of the most interesting and telling factors have been the pleas which have been made by those accused and the use of juries. In the cases of the Gaza demonstrators following demonstrations in London against the Israeli bombing of Gaza in December 2009, six of the known seven cases where the accused pleaded not guilty were found not guilty by the jury or their cases were dropped. However, 35 of those who pleaded guilty were given sentences of between ten and 24 months. In 2000, a jury found Greenpeace director Lord Melchett and 27 activists not guilty of causing criminal damage to a field of genetically modified (GM) crops. More recently juries found seven anti-war activists not guilty in the EDO case in Brighton and environmental activists not guilty in the Kingsnorth Six case.

These cases highlight the importance of wider issues such as trial by jury, and the need for good legal advice and representation. Protest cases are invariably more political in nature and often have the added burden of negative media coverage. Given all of this, the protester who is made to ‘face the full force of the law’, as David Cameron proclaimed following the occupation of Millbank Tower on the 10th November 2010, is in a rather precarious legal position.

Lawyers will be crucial in developing a culture more conducive to public protest as a form of political expression worth protecting rather than something worth penalising or repressing. Defence campaigns will also play a vital role in doing this. In times like these it is important that people are not deterred from protesting by negative media coverage and repressive police tactics.

Fiona McPhail is a trainee solicitor in Scotland at the Legal Services Agency Law Centre. For more information on the campaign to Defend the Right to Protest and to sign the petition see: www.defendtherighttoprotest.org and www.defendbryansimpson.org
GARETH PEIRCE

joined the firm of the radical solicitors Benedict Birnberg as a trainee, and was admitted as a solicitor in December 1978. For the past 30 years she has been involved in the defence of successive suspect communities. During her career she has represented Judith Ward, a woman falsely accused of several IRA related bombings in 1974; Gerry Conlon of the Guildford Four; Moazzam Begg, who was held in extrajudicial detention in Guantánamo by the US Government; and the Bradford 12. The family of Jean Charles de Menezes instructed her firm in the inquiry into his death. She is a partner at Birnberg Peirce and Partners.

‘War on terror’: how has this changed the legal landscape?

This is a very diffuse and undefined term. The concept of there being a war has been used to destroy entirely important certainties in the law, and infected and contaminated the law so that the law is no longer applied as we understand it. This is what in many ways has happened. The Torture Convention, the Refugee Convention, the Geneva Convention, many of the international treaties we are bound by in this country have been side stepped. As well as a significant number of aspects of what we call due process have been jettisoned. We had no parliamentary debate to discuss the fact that what we were doing was effectively abolishing trial by jury. What we had rushed through Parliament was internment, locking people up indefinitely without a trial, accusing them of the most serious of criminal offences, of involvement in international terrorism, but then at the same time saying although there was evidence, the accused person wasn’t to see it and the evidence was to be considered in secret court and secret session.

In one fell swoop an individual could now be accused of a serious crime and be simultaneously told he would not have a jury trial and would never know what the allegation was. It was a breath-taking innovation which the House of Lords ultimately declared unlawful, but no sooner did the accused men, succeed in their challenge after three and a half a years in prison, then something new was attempted.

This time Control Orders, no longer imprisonment as such but a form of house arrest, imprisoning you at home and within geographical boundaries, restricting what you did, restricting who you saw and again on the same secret evidence. Thus a further destruction of due process. In terms of what we thought fit to do and what we still think fit to do: exchanging information too with countries that use torture to obtain information, knowing that is what we are doing and yet pretending we have clean hands. This is what we have moved to. An utter destruction of our obligations under the Torture Convention as well when we try to deport people to torturing regimes, a destruction of our obligations under the Refugee Convention when we consciously co-operated with British citizens being sent to Guantánamo.
Bay as we did and our ministers did. What did that have to do with the rights of those individuals under the Geneva Convention if captured as the Americans claimed? If ‘enemy combatants’ they should have been treated accordingly, with the minimal rights and dignities accorded by international conventions. But they were not, and that they were not was with this country’s endorsement.

Many Muslim communities believe they have been unfairly targeted and prejudiced. What do you think of this?

If you target a community en bloc then the very essence of that is that it is making the whole community suspect and making every member of that community certain that that is how they are regarded and how they are to be treated, and further effectively requiring members of that community to actively protest their innocence. Because of the stigma, the prejudice, and the consequences, the community as a whole is frightened. Recurrent questions spoken or unspoken are posed to members of the Muslim community who are not running for public office, nor wanting a political post, nor applying for a job dependent on religious or political beliefs. ‘Where do you stand on this issue? What do you think about this issue? What grounds of Islamic belief do you adhere to or not adhere to?’

It is no business of the state to demand of its citizens that they articulate responses to such questions or be interrogated by what is after all a largely secular state albeit nominally Christian, about their faith. Nevertheless across the board this is a situation we have imposed on Muslims in this country. Individuals from the Muslim community do not anticipate if they travel they will travel freely; members of the Muslim community believe if they travel they will be subject to arbitrary stops and questioning. Regardless of their law abiding status, absolutely regardless of that, they are all suspects. And thus it has always been in the past with other suspect communities. The experience for the recipients is real and not imaginary, but is erected upon a basis of falsehoods reinforced by repetition of the danger an entire community is said to constitute, intended to justify the robbing of those suspect communities in turn of full basic rights, dignities and respect that belong to all.

Are there any parallels between current experiences in the Muslim Community and those of the Irish Community in the 1970s and 1980s?

Worldwide, populations, communities and groups who have suffered historically identical experiences understand in a way that nobody else does, the parallels. Now it is the Muslim experience as opposed to the Irish experience of only a few years ago, but it is in no way confined to those two experiences. The history of the black community in Britain, of the miners during the miners’ strike, of the Asian community throughout the 1970s and 1980s—all continually under attack whether by fascists or police and all criminalised generally but in particular when they defended themselves. ‘The enemy within’ as Thatcher called them.

The history of parallel struggles informs us and enlightens and inspires us but frighteningly we never learn from world history, we simply do not learn.

We don’t learn about the hideous mistakes of history nor from them, nor do we learn the causes and the effects. We don’t learn how injustice provokes reaction. We don’t learn how the folklore of injustice comes to be known and understood by the affected community as a whole, and not just in one country but worldwide.”
Control Orders: what impact do these measures have or have they had upon the detainees?

Over nine years ago, on 19th December 2001, approximately a dozen foreign nationals were suddenly arrested in their homes. They were not taken to a police station for questioning, despite the massive powers the police possess to question people suspected of involvement in terrorism. They were locked up potentially forever without trial and without being given reasons and so it was that we had re-introduced a measure forbidden in this country for decades: internment. The UK in 2001 no longer called it ‘internment’ since that carried with it echoes of years of illegality and the destruction of rights of the Irish in Northern Ireland where we had done exactly the same thing in the late 1960s and 1970s.

The Government claimed it wasn’t internment now, because people were free to leave. Even though the people concerned were refugees who couldn’t return to their own countries. It would be returning to torture or death: or accepting and then fighting the new ‘internment’.

Although they won in the end the legal battle, it took years, and equally importantly, it broke families, individuals, communities. Initially, there were a dozen individuals and more later. Of those detained, two thirds became mentally ill. Psychologists and psychiatrists who pooled their knowledge found that indefinitely detaining people without trial carried the high risk of producing long term damaging effects. The helplessness and the despair of being imprisoned without being told why and never knowing if you would ever escape from the nightmare.

The Control Orders imposed as a substitute on their release were not liberating. The men concerned returned to their homes if they were cleared and given permission by the Home Office. The individual concerned couldn’t meet people outside without permission of the Home Office either.

All of this has an effect too on the Government and Civil Service who administer the scheme, and the Security Service who provide secret information. It produces the confidence that they can continue, open endedly, to do it. Secret Courts and secret hearings are a very useful weapon in the arsenal of the executive who are unanswerable in the way police are answerable. Nobody knows what the case is. It is heard in secret, but yet courts have allowed the expansion and thus the appetite to increase their use.

Both parties in what is meant to be an adversarial system become cynical, the individual involved, and the wider community in which he lives become cynical that you can’t win; if you do, the Government simply moves the goal posts to introduce another different measure. The Government, equally cynically, considers it doesn’t really matter if in the end it loses in the courts, because after all it will have had the individual concerned imprisoned or under house arrest year after year after year while interminable legal cases wind their way through the courts at a snail’s pace. And it is bad, destructive and dangerous for it to be thought that we can’t apply the law to benefit the whole of society equally. It’s a dangerous recipe.

What is your view of PACE and in particular, the amendments to the Act since its introduction?

Solicitors must now be present with suspects in police stations and importantly present in all police interviews. It is an essential element in the protection of individuals and their rights. Although police can and still to a limited extent interfere with people’s access to lawyers, in
comparison with the absolute prevention of lawyers being present at all three decades ago, it is a very different circumstance. The practice of extracting false confessions by police brutality has been in large part eradicated.

However, the legislative reaction to those changes with which I disagree was that two things in consequence became acceptable. One, that it is deemed lawful to detain someone for the purpose of questioning whereas previously it had been said to be illegal to detain someone for that purpose. And second, further and yet further extensions of periods of detention for the purposes of questioning which previously were not lawful. In parallel the right to silence came to be severely diminished so that an inference could be drawn from failure to answer questions at the police station. That was an appalling quantum change. It was rationalised on the basis that the person detained was getting considerably greater protection than before by the guarantee of a lawyer’s presence and by the tape recording of interviews and the state, in return, could demand a ‘balance’. I regard that as entirely wrong. The absolute right to protection against self incrimination has been ‘balanced’ out by the State itself to appease the State’s own endless appetite for yet greater powers.

Legislation has continued to ensure that the State is in control of due process rights; the right to silence diminished, the ability to detain for questioning, increased from 48 hours to seven days if the allegation relates to terrorism, then seven jumped to 14, then 14 jumped to 28. But underneath it all a new and different confidence has been generating namely that the ordinary processes of investigation and prosecution can be avoided altogether. Where we are now, far from being an era of great protections, has become the most dangerous of all in which the rights of the individual have eroded to the most basic level and the powers of the State grown stronger and greater.

It is a constant battle to attain any degree of protection at all. Many guarantees have gone now that we regarded as enviable in the past.

“The absolute right to protection against self incrimination has been ‘balanced’ out by the State itself to appease the State’s own endless appetite for yet greater powers”

Majida Bashir is a paralegal at Sonn Macmillan Walker solicitors and a member of the Haldane’s Executive Committee. Yasin Patel is a barrister at 25 Bedford Row
US diplomatic cables released by the WikiLeaks whistle-blower website have increased the strains on already troubled US-Latin America relations, says Pablo Navarrete

Hodges is the second US ambassador forced to leave their post in a Latin American country because of scandals resulting from the disclosure of cables from WikiLeaks, which has released more than 6,300 US State Department cables since November 2010 through the international news media.

In March 2011, the US Ambassador to Mexico Carlos Pascual resigned following Mexican Government outrage over cables released by WikiLeaks describing friction between Mexico’s army and navy, and in which the ambassador complained about inefficiency and infighting among Mexican security forces.

The resignation and expulsion of the US ambassadors in Mexico and Ecuador form part of a wider trend of recent setbacks in US-Latin American relations.

In March 2011, at the beginning of US military air strikes on Libya, former Brazilian president Luiz Inácio ‘Lula’ da Silva declined to attend a meeting between President Obama and former presidents of Brazil. Brazil’s Government, like many in Latin America, has been an outspoken opponent of using foreign military force in the Libyan conflict.

The increased tensions in US-Latin American relations also follow recent revelations in cables released by WikiLeaks that describe US Government co-ordination with Colombia over a public relations strategy to attempt to link Ecuadorian President Rafael Correa to a main Colombian guerrilla group, the FARC.

Commenting on the scandals affecting US-Latin American relations resulting from disclosures from the US Government cables released by WikiLeaks, Mark Weisbrot, Co-Director of the Washington DC based think tank, the Center for Economic and Policy Research, said: ‘The Obama Administration doesn’t seem to know how to have normal diplomatic relations with democratic, left-of-centre Governments in the hemisphere.’

He added that there was a trend – well documented through US Government cables, fund-disclosures, and other information – of attempts to undermine Governments in Bolivia, Brazil, Honduras, Venezuela, and other countries. ‘They still haven’t restored ambassadorial relations with Bolivia, and can’t seem to find an ambassador for Venezuela,’ Weisbrot noted. ‘Despite a much better media image, they don’t seem to be doing any better than the Bush administration in the region.’

Weisbrot also noted that Ecuador would also have cause to be concerned about a cable from Bogotá, that was shared with the US Embassy in Quito, revealing that ‘the [Government of Colombia] GOC plans to selectively leak information from FARC computers connecting Presidents Chávez and Correa and their Governments to the FARC over the next 4-6 weeks.’ The cable notes that the Colombian Government was providing the US with the hard drives, but ‘on the condition that we not release any information without first consulting with the GOC.’

The cable described how ‘the GOC plans to selectively provide intelligence to the computers to carefully chosen North American, Colombian, Spanish, and Latin media tied to specific themes’, with one of the proposed themes being ‘the FARC and President Correa’.

There is no indication of US Government concern over the validity of these claims, which were based solely on information provided by the Colombian Government.

Pablo Navarrete edits www.alborada.net – a website covering Latin America related issues such as politics, media and culture
Our base for the delegation was a hotel in central Tunis on the Avenue de Habib Bourghiba, named after the last dictator but one to rule the country. The street bore all the hallmarks of French colonial history. Across the street from our hotel stood the hugely imposing building of the Ministry of the Interior – protected by tanks, soldiers and razor-wire – which was known as a centre for torture and repression under the regime of Zine El Abidine Ben Ali, Bourghiba’s successor. It was outside here that throughout the revolution Tunisians would gather chanting ‘degage’ (‘leave’) the cry which became the unifying call for an uprising. Indeed, during our stay the street hosted a number of protests and demonstrations, as people continued to show their opposition to vestiges of the Ben Ali era.

When Hilary Clinton came to the country during our visit protesters took to the street and she too was greeted with the chant of ‘degage’ rather than the As-Salamu Alaykum for which she might have hoped.

Our schedule began with the L’Association Internationale de Soutien aux Prisonniers Politiques (AISPP) conference which brought together a number of newly released and former political prisoners. Over one thousand people crammed into a former Government building which only weeks before had hosted a conference of an entirely different character and had been addressed by Ben Ali and his fellow fallen despot, Hosni Mubarak. Musicians played music and songs previously banned under the Ben Ali regime along with compositions penned after the revolution which narrated the events which had passed. The crowd sang along while waving the flags of Tunisia, Egypt and the adopted colours of the Libyan rebels. The mood was one of overwhelming solidarity as we heard from speakers across the political spectrum, all of whom had suffered at the hands of the Ben Ali state.

The following day we met with the Tunisian interim Prime Minister, Beji Caid Essebsi. We went to the meeting intent on asking Mr Essebsi difficult questions and in the hope of receiving assurances which we could document in our report. We asked to know how the Government would provide for the compensation and rehabilitation of former political prisoners; whether Tunisian ex-Guantánamo detainees could return to their country; and what sanctions could those who tortured and abused under Ben Ali expect to receive. In response, Mr Essebsi was rehearsed, calculated and non-committal. He told us that the interim Government could not apologise for crimes of the previous Government and that his role was nothing more than one of holding the fort until the elections in July. After the elections, he said, former ministers and Government officials would stand aside, ensuring credibility for the new administration. However, during our visit we learned from others that members of Ben Ali’s Government were still involved with politics or were involved in creating new political parties. Mr Essebsi told the delegation that there were no longer political prisoners in the country and all had been released under an amnesty following Ben Ali’s departure. This was also challenged by many of the democracy campaigners we spoke with later.

Mr Essebsi’s attitude was typical of the members of the interim Government with whom we spoke. That it was a transitional phase for the country was not in dispute. Yet those who could begin the painful process of
truth and reconciliation seemed more intent on using this transition as a reason for doing nothing.

The views of those who will participate in the elections of 24th July 2011 were illuminating. We discussed the political climate with representatives of the Tunisian Communist Party (POCT) and the main Islamist party Ennahda ('Renaissance' in Arabic). Hammam Hammami POCT’s leader who had only recently returned from exile was clear that the planned elections were being held too soon. The date, he said, coincided with a number of important cultural and economic occasions in Tunisia and there were simply too many other preoccupations to be dealt with before elections should be contemplated. He wanted to see strict rules in place governing the conduct of elections, especially concerning party funding since it was the enemies of the revolution who had the financial power.

The representatives of Ennahda spoke of the history of repression their members had suffered under Ben Ali. Corruption and autocracy, they told us, reached every Government department. Ennahda had been part of the 18th October coalition, a group of political and civil society organisations which included POCT and which in 2005 agreed to work together in opposition to Ben Ali. It was this coalition, according to Ennahda, which gave confidence to the young and raised resistance when it became clear Ben Ali was preparing to stand aside in favour of his son. They believed this social movement was ahead of the political parties when the protests began in Sidi Bouzid and other towns. This had been a revolution against corruption and dictatorship.

In other meetings, bloggers told us of their struggle to evade censorship and publish details and pictures of torture while trying to remain anonymous and unknown to the authorities. One interesting detail of their struggle concerned the use of Facebook. When a number of Tunisian youth wrote to Facebook detailing instances in which they believed their accounts had been hacked by state agents, Facebook created a new secure site for Tunisia impregnable to the hacking of the Government. Facebook has never publicly commented on the truth of this claim.

A retired judge, who had spent his career resisting pressure to decide cases in favour of those with power and influence, told us details of the form the intimidation against him took with visits from heads of court or threats from police in courtroom corridors. ‘In Tunisia’, he told us ‘first we put people in prison, then we find a reason’. The account was similar to that of Samir Ben Amor, a lawyer who has worked with Tunisian Guantánamo detainees and other political prisoners. He told us of criminal damage carried out against his offices and car, false charges of tax irregularities and facing obstruction when trying to visit clients in prison. When I asked him if he had been the victim of intimidation and harassment, the rejoinder came: ‘A better question is “Have you ever practised your profession in a normal way, even for a day?”’

It would have been inappropriate for any delegation to Tunisia to have concluded without visiting the town of Sidi Bouzid, where, in desperation at his poverty and humiliation, Mohammed Bouazizi carried out his act of self-immolation. In Sidi Bouzid and neighbouring Kasserine the people’s concerns were characterised by a mistrust of the distant Government in Tunis and anger and frustration at levels of unemployment.

The course Tunisia has taken is yet to become clear. Elections for an interim Government will take place on 24th July 2011. It must be hoped that Mr Essebsi’s words will bear fruit and the old order will disappear from public view. But doubt lingers as to the veracity of his claims to be working in the people’s interest and at the time of writing more unrest has come to the streets of Tunis. Indeed, since January 2011, each time the Government has made a nepotistic or unpopular appointment, crowds have demonstrated against it until the decision was reversed. There can be no rest for the old regime. The people are watching.

Russell Fraser is a paralegal at Birnberg Peirce & Partners and a member of Haldane’s Executive Committee.
Legal advice and violence against women

Over the past 35 years Rights of Women has been providing women with free legal advice and information on a range of legal issues, including: family law and domestic violence; criminal law and sexual violence; and immigration and asylum law. Throughout that time the women who have contacted us have described a range of encounters with the civil and criminal justice systems. Central to those experiences has been legal aid.

We know that legal aid is a vital, lifesaving resource. Women’s ability to obtain and benefit from their legal rights and remedies is dependent upon their ability to access legal information, advice and representation. Women experiencing violence may need advice on how they can protect themselves from violence by seeking non-molestation or occupation orders; how to divide joint assets and debts following relationship breakdown; deal with the family home; make arrangements for child contact and organise child maintenance. Women at risk of specific forms of violence that disproportionately affect black and minority ethnic and refugee and asylum-seeking women (such as forced marriage, dowry-related violence and female genital mutilation) may need additional specialist legal advice on these issues.

The provision of legal advice is a fundamental part of the right to a fair trial under Article 6 of the European Convention on Human Rights (ECHR). The UK has also committed to the provision of free or low-cost legal aid when it signed the Beijing Declaration, adopting the Beijing Platform for Action, at the Fourth World Conference on Women in 1995. As violence against women is both a cause and a consequence of women’s inequality, the ability to access free or low cost legal advice is particularly important for women who are more likely to experience economic disadvantage and be less likely to be able to pay for legal advice.

Our research

Following the opening of the Ministry of Justice (MOJ)’s consultation on the ‘reform’ of legal aid, Rights of Women decided to undertake research into the operation of the current legal aid scheme and the proposals to ensure that our response to the consultation was evidence-based and that our conclusions represented the views of the individual women and the professionals we work with. To do this we created three surveys on legal aid and access to justice which were available to complete on our website between 17th December 2010 and 31st January 2011. We developed specific surveys to capture the experiences of individual women; professionals who work on violence against women such as social workers and police officers; and legal professionals. In total just under 1,000 people responded to our surveys. What emerges from our research is a system of legal aid that is meeting the needs of some of the most vulnerable people in our society, as one of the individual women who responded said: ‘...legal aid is not only a necessary tool for victims of domestic violence, it is also a life-saving tool both for women and children.’

Gender-based violence

Fifty-eight per cent of the individual women who responded to the survey had experienced violence. This ranged from domestic violence and harassment to childhood sexual abuse. Fifty-four per cent of these women did not report this violence to the police or apply to the courts for a protection order.

Seventy-nine per cent of professionals responding to violence against women thought that the women they supported did not routinely report that violence to the police or seek the protection of the courts.

Women experiencing violence had a range of legal problems in a variety of areas of law, including in relation to children (24 per cent), divorce (33 per cent) and housing (24 per cent). Victims of gender-based violence, including domestic violence, need advice and representation on a range of legal issues if they are to obtain protection, not just domestic violence injunctions which accounted for just 14 per cent of respondents’ legal problems.

The MOJ’s consultation document proposes that legal aid to resolve family law matters, other than to obtain domestic violence injunctions, will only be available in domestic violence cases where the victim meets one of the following requirements:

- Where the Legal Services Commission (LSC) is funding ongoing domestic violence or forced marriage proceedings brought by the applicant, for example an application for an injunction, or has funded such proceedings within the last 12 months and an order was made, arising from the same relationship;
- Where there are ongoing privately-funded or self-represented domestic violence (or forced marriage) proceedings, for example, an application for a protection order, or where there have been such proceedings in the last 12 months and an order was made, arising from the same relationship;
- Where there is a non-molestation order, forced marriage protection order or other protective injunction in place.
against the applicant’s ex-partner (or, in the case of forced marriage, against any other person);

Where the applicant’s partner has been convicted of a criminal offence concerning violence or abuse towards their family unless the conviction is spent.

It is clear from our research that the evidential requirements proposed would leave the majority of women experiencing violence without protection as victims or survivors of domestic violence simply do not routinely report that violence to the police or apply to the civil courts for a protection order. The following case-study, provided by a legal professional who responded to our survey exemplifies this:

‘One recent example was a young mother of two who had been brought through marriage from Pakistan to the UK. She was subject to frequent and extreme abuse from all members of the father’s family and the father, including verbal degradation, being hit, made to stay up all night as a punishment and burnt with hot oil. Her children were removed from her care by the family if she displeased them. Eventually she was made to live with the father’s sister, who orchestrated a gang rape of her. She eventually fled to a refuge. The family issued residence and contact applications. Ultimately the court accepted all of her allegations. There had been, however, no preceding injunction or criminal convictions.’

Self representation

The consultation proposes that where legal aid is no longer available, for example, in immigration or family cases that are removed from the scope of legal aid, individuals with legal problems should be able to represent themselves. However, in our research we found that:

89 per cent of individual women and 97 per cent of legal representatives thought that women experiencing violence would be unable to represent themselves;

Individual women were concerned about their safety and ability to understand proceedings, while legal professionals expressed concern about the complexity of proceedings and the ability of litigants in person to advocate for themselves adequately.

One professional who responded to the violence against women issue gave the following account of a woman who was unable to function when she saw the perpetrator of violence in court. This example is particularly interesting as it illustrates how the court process can be used to facilitate further abuse:

‘A woman was and still is being persecuted by her husband. He is representing himself and continually takes her to court and fires questions at her, the case has been going on for two years. She is an ethnic minority, living in vulnerable housing until the case is settled with a five year old daughter. She is highly intelligent and generally able to represent herself well, but in front of the perpetrator she becomes a wreck and is unable to string two coherent words together. I don’t believe under any circumstances she could represent herself and could certainly not afford to pay for representation.’

Mediation

Mediation is also being presented by the MOJ as an alternative to litigation in most family disputes; however, our research highlighted real problems with this approach:

66 per cent of individual women thought that mediation was not appropriate in domestic violence cases, in comparison with 70 per cent of legal professionals and 80 per cent of professionals who respond to violence against women. These figures suggest that the more that a person knows about violence against women, the less likely they are to believe mediation appropriate in domestic violence cases;

All respondents raised concerns about safety and the re-victimisation of the women concerned.

One legal professional shared an account of a case that
Areas of law removed from scope of legal aid

All respondents to our surveys were concerned about the removal from the scope of legal aid of areas of law such as private family law, immigration law and welfare benefits and housing law.

- 97 per cent of professionals who respond to violence against women and 97.5 per cent of legal professionals thought that women experiencing violence would not be able to represent themselves if they had legal problems in areas that are proposed to be removed from the scope of legal aid.
- Of most concern to these respondents was the removal of family, welfare benefits and immigration law from the scope of legal aid as these areas were identified as particularly complex.

The vulnerability of women experiencing domestic violence and their inability to represent themselves was summed up by one legal professional who gave this example of a woman who had been helped by legal aid in relation to an immigration law problem:

‘I recently represented an Iranian woman who was in the UK on a spousal visa. She was a victim of domestic violence and her marriage broke down. As a result she suffered Post Traumatic Stress Disorder, depression and anxiety. She was completely alone in the UK, save for her abusive husband. She called the police following an attack by her husband and was referred to the Citizens Advice Bureau for advice. CAB then referred her to a solicitor for assistance with her divorce proceedings. She was granted legal aid and they helped her gain access to her home and financial support while her divorce was going through. The same solicitors also dealt with her immigration appeal through legal aid when her husband informed the Home Office that the marriage had broken down and curtailed her leave. She was severely depressed and found it difficult to assist her lawyers prepare the appeal. She regularly broke down in tears and found the whole process extremely tiring and hopeless. If she was dealing with the matter herself, I am sure she would have given up.’

The telephone helpline

The consultation suggests that many applicants would prefer to get advice over the telephone rather than in person and proposes setting up a telephone helpline as a single gateway for all civil legally aided advice. This proposal was roundly rejected by all respondents to our surveys:

- 68 per cent of individuals said that they would not feel confident speaking to an operator on a helpline about their legal problem; 93 per cent said they would prefer to speak to a solicitor or advisor in person;
- 77 per cent of professionals who respond to violence against women and 93 per cent of legal professionals thought that an operator on a helpline would not be able to identify and respond to violence against women;
- 79 per cent of professionals who respond to violence against women thought that the women they supported would not be able to fully understand and act on advice they received by telephone;
- 91 per cent of legal professionals thought that it was extremely important that vulnerable clients, such as those experiencing violence or those with disabilities, are able to get face-to-face, specialist, legal advice;
- 94 per cent of professionals who respond to violence against women thought that it was extremely important that women experiencing violence are able to get face-to-face, specialist, legal advice.

The majority of those who commented on this proposal in our surveys were concerned about the ability of women to disclose violence and other discrimination to someone unknown and possibly untrained, over the phone. As one response said: ‘Difficult to trust someone on phone with highly personal details such as sexual abuse.’

The ability of women to be able to use the helpline was also questioned by one individual woman respondent who said: ‘I maybe wouldn’t explain my situation properly whereas a solicitor asks you specific questions in order to assess your situation.’

Other sources of advice

Respondents who were unable to get legally aided advice and representation would either go, or refer their service-user to a law centre (60 per cent), Citizens Advice Bureaux (85 per cent), specialist organisations working against violence (70 per cent) or Rights of Women (56 per cent).

However, these sources of support are unlikely to be able to cope with increased demand for their services. Indeed, given the dependence on legal aid of Citizens Advice Bureaux and law centres, given the current financial situation, it is questionable whether these sources of advice and support will continue to be available at all. This will leave many with nowhere to go to get life-saving legal advice and representation.

Legal aid, access to justice and international human rights law

The right to a fair trial is set out in Article 6 of the ECHR which is incorporated into UK law through the Human Rights Act 1998 (HRA). The right to a fair trial and the ability of an individual to access a court and the protection of the law are fundamental human rights which are inextricably linked with the protection of other fundamental human rights, such as the right not to be subject to inhuman and degrading treatment under Article 3 ECHR and to respect for private and family life under Article 8 ECHR.

Often discussions about Article 6 and legal aid focus on the criminal law. However, the right to a fair trial and legal aid also apply to civil law issues, including areas such as family law. The European Court of Human Rights has determined that the ability to access legal aid is central to this right.

In the case of Airey v Ireland [1979] ECHR 3, the ECHR held that a failure to provide legal aid to enable a victim of domestic violence to get a judicial separation from her husband violated Article 6(1) of the ECHR. Importantly, in this case the European Court of Human Rights (ECHR) articulated the important principle that the ECHR is not about ‘theoretical or illusory’ rights, but rather these rights must be ‘practical and effective’. In relation to Article 6, the Court said this principle ‘is particularly so of the right of access to the courts in view of the prominent place held in a democratic society by the right to a fair trial.’

The Court recognised that while Article 6 does not require blanket access to legal aid for all civil cases, legal aid may nonetheless be required in certain circumstances to ensure the fairness of proceedings:

‘Article 6 para. 1... may sometimes compel the State to provide for the assistance of a lawyer when such assistance proves indispensable for an effective access to court either because legal representation is rendered compulsory, as is done by the domestic law of certain Contracting States for various types of litigation, or by reason of the complexity of the procedure or of the case.’

Interestingly, the ECHR rejected self-representation as a sufficient guarantee of Mrs Airey’s human rights:

‘The Government contend that the application does enjoy access to the High Court since she is free to go before that court without the assistance of a lawyer. The Court does not regard this possibility, of itself, as conclusive of the matter. The Convention is intended to guarantee not rights that...’

Socialist Lawyer June 2011 29
are theoretical or illusory but rights that are practical and effective. It must therefore be ascertained whether Mrs Airey’s appearance before the High Court without the assistance of a lawyer would be effective, in the sense of whether she would be able to present her case properly and satisfactorily.

The Court went on to examine the proceedings and their complexity and concluded that it was ‘most improbable’ that someone in Mrs Airey’s position could effectively present her own case. Therefore in this case it was held that access to legal aid was required to ensure that Mrs Airey’s right to a fair trial was not infringed.

In *Steel and Morris v UK* [2005] ECHR 103, the Court acknowledged that restrictions can be placed on the right of access to the courts, provided that these are pursuing a legitimate aim and are proportionate. It therefore, may ‘be acceptable to impose conditions on the grant of legal aid based, inter alia, on the financial situation of the litigant or his or her prospects of success in the proceedings’. However, the Court also noted that legal aid was not required ‘as long as each side is afforded a reasonable opportunity to present his or her case under conditions that do not place him or her at a substantial disadvantage vis-à-vis the adversary’. The Court set out several factors for determining whether a civil case requires legal aid in order to meet the standard of a fair trial set out in Article 6:

‘The question whether the provision of legal aid is necessary for a fair hearing must be determined on the basis of the particular facts and circumstances of each case and will depend *inter alia* upon the importance of what is at stake for the applicant in the proceedings, the complexity of the relevant law and procedure and the applicant’s capacity represent him or herself effectively.’

The Court went on to examine the complexity of the relevant proceedings before concluding that the denial of legal aid to the applicants deprived them of the opportunity to present their case effectively and contributed to an unacceptable inequality of arms which violated Article 6 ECHR.

Rights of Women believes that it is clear from the case-law discussed that the right to a fair trial in civil cases requires legal aid be provided in complex cases that engage Convention rights. While the Court makes clear that ability of an individual to represent themselves in simple and straightforward proceedings is sufficient to prevent a breach of their Article 6 rights, it is also clear that legal aid must be provided in cases that are complex, where legal aid is necessary to enable effective access to a court. In determining complexity, consideration has to be given not just to the relevant law and procedure, but also to the capacity of the individual concerned.

**Conclusions**

Rights of Women believes that the MOJ’s proposed changes are contrary to the UK’s domestic and international human rights obligations. In terms of our research, we believe that it is striking that these proposals commanded absolutely no support from any of our respondents. It is perhaps unsurprising that individual women and legal professionals would have concerns about proposals which would, if implemented, have significant negative consequences for them. What is interesting is that the proposals are rejected as unworkable by those who have no personal or professional interest in legal aid but who have unparalleled knowledge of legal aid as a tool for victims of violence: professionals who work on violence against women issues.

Catherine Bridgick is the Senior Legal Officer for the organisation Rights of Women. The full research report, *Women’s Access to Justice*, can be downloaded free of charge from their website [www.rightofwomen.org.uk](http://www.rightofwomen.org.uk)
Counter-terrorism review

‘T-PIMS’: CONTROL ORDERS LITE?

The Government’s review of counter-terrorism includes the abolition of a host of measures enacted during the New Labour years. Russell Fraser analyses the proposals, which includes a new regime of ‘Terrorism Prevention and Investigation Measures’ (‘T-pims’) >>>>
ome say, satirically, that after his first national security briefing Barack Obama asked if he could have a recount, such was the catalogue of threats, real or presumed, against America. But the joke reveals a more serious truth about the nature of pre-election promises. In matters of national security, it can be expedient for new administrations to abandon commitments to the rule of law by solemnly lamenting that they did not know how bad things really were. After the conclusion of the Government’s counter-terrorism review in January 2011, the impression might be formed that the coalition will rely on the cry of retreat, the one which sneers: ‘we didn’t know the whole story’. The coalition agreement, remember, contained the following pledge: ‘We will implement a full programme of measures to reverse the substantial erosion of civil liberties and roll back intrusion.’

Anyone reading the review document might be forgiven for believing that on this occasion a new administration had not abandoned its promises at the mere whispered warning of the police or MI5. The abolition of a host of measures enacted during the New Labour years is recommended. The news that 28 days’ pre-charge detention for terrorist suspects is to be reduced to 14 days, along with a Government statement that it ‘can see no scenario that would ever require the use of 42 days’ is particularly welcome. Though The Haldane Society maintains its position that terrorism should be treated as any other crime and so 96 hours’ detention should be the maximum. Following judgment in the European Court of Human Rights, the review confirms that section 44 of the Terrorism Act 2000, which enabled the police to stop and search pedestrians without reasonable suspicion in certain prescribed circumstances, will be repealed. The review recommends its replacement with new legislation which only allows such searches in exceptional circumstances. A related recommendation suggests changes to the guidance given to officers regarding members of the public taking photographs. This follows the targeting by police of members of the public and photographic journalists who were taking usually innocuous pictures in public spaces around the country.

However, these positive advances are undermined by the findings of the review concerning control orders and the deportation of foreign nationals accused of being engaged in terrorism. The UK ‘gives succour to regimes that practice of deportation with assurances. The review explains: ‘When seeking to deport foreign national terrorist suspects the Government may seek assurances from the receiving state about the person’s treatment on return, so ensuring that the deportation is consistent with our human rights obligations.’ At present the UK has generic arrangements with five countries: Algeria, Jordan, Lebanon, Libya (though the Government has not succeeded in persuading the Courts to return a single Libyan it has sought to deport) and Ethiopia all of which are countries which are known to use torture. Many oppose these agreements on the grounds that they are unreliable and impossible to supervise or monitored by agencies which lack independence or the skills and resources needed. However, the review concluded that it was satisfied that these agreements have been honoured. The review evades the question of whether it is right and proper for a country such as the UK, which purports to abhor torture and human rights violations, to enter into any such agreements with countries who not only torture but display little remorse about doing so. The recent upheaval in Libya darkly demonstrates that these agreements, if they have any value at all, are bankrupted when the first bullet is fired on a disgruntled crowd.

The UK claims to set itself high standards in human rights and so it should. But those standards do not survive deals in which we shake the hand of a foreign despot who dutifully guarantees that he will not harm one deportee, while at the same time his free hand is torturing oppositionists with impunity. Yet Lord Macdonald of River Glaven QC, the person charged with providing independent oversight of the review, endorses this finding. Lord Macdonald, too, has seen no evidence of deported persons having been mistreated on their return to the countries in question. Nor does he accept the suggestion that by entering into assurances, the UK ‘gives succour to regimes that torture’ and instead favours the analysis that by entering into negotiations with other countries on the issue of treatment of prisoners it ‘is likely to have a positive effect upon the regimes in question.’ This is a vulnerable group of people with which to enter into an experiment in testing the honour of politicians who order torture. But the price of these agreements failing is small and few votes are lost banishing people branded terrorists without ever having faced a jury. Appeals against decisions of the Home Secretary to deport individuals on national security grounds are heard before the Special Immigration Appeals Commission (Siac). A feature of Siac cases is that they are heard in both open and closed sessions. In the closed session the appellant has to leave the Court without his nominated legal representatives. Instead he is represented by a special advocate who is not permitted to take further instructions from the appellant when this stage of the proceedings is reached. These hearings contain evidence which the Government says cannot be revealed to the appellant for fear that it
would compromise national security. Yet, in the three pages of the review concerned with deportation, there is no discussion of fairness of these hearings. Crucially, the review is also silent on the bail conditions of individuals exhausting their legal remedies challenging national security deportation. This is perhaps best discussed in the context of control orders.

As the review states, control orders were introduced in 2003 as emergency legislation. Nonetheless, six years later individuals are still being made subject to control orders and a total of 48 people have been served with one since their introduction. The review rightly acknowledges that control orders have been criticised because they are applied in the absence of charges or convictions, because the Home Secretary relies on closed evidence in obtaining them, and because of the onerous and intrusive obligations they impose. If the coalition Government were to remain true to its agreement document then control orders would have to be abolished, perhaps even in the face of the recommendations of the review.

However, the proposed new regime of Terrorism Prevention and Investigation Measures (T-pims) has already been labelled as a ‘control-order lite’ by the civil liberties campaign organisation Liberty. The review identifies the difficulties of prosecuting people suspected of involvement in terrorism but whose activities have been disrupted long before being allowed to come to fruition. It argues that this can lead to the Crown Prosecution Service (CPS) deciding there is insufficient evidence to prosecute and the suspect is released. The review argues that there must be powers to deal with them and, for example, foreign nationals who cannot be deported. At present, the types of obligations imposed on those subject to control orders include lengthy curfews, electronic tagging, bans on associating with certain people, geographic boundaries from which they cannot stray and in some cases relocation to another part of the country.

In his report of the review, Lord Macdonald criticised the practice of relocation, calling it ‘a form of internal exile, which is utterly imical to traditional British norms. In the absence of any intention to charge, still less to prosecute, no British citizen should be told by the Government where he may or may not live. The review is clearly right to recommend the abolition of this thoroughly offensive practice. It is disproportionate and there is no justification for its retention.’ Incredibly, the full range of these conditions can also be imposed on appellants on bail to Siac and in the past some of the appellants have been subject to curfews for periods between 20 and 24 hours, exceeding that available in control orders. Yet, there is no discussion of Siac bail in the review at all, nor a justification for the dissonance between Siac bail conditions and the new proposals for control orders.

Furthermore, Lord Macdonald also criticises many of the measures as anathema to efficient evidence gathering. If prosecution is to remain a priority in these cases then it can be said with certainty that obtaining evidence necessary to that end is likely to be frustrated in preventing suspects associating, using telephones and the internet and going to certain locations. Lord Macdonald says as much when he writes ‘[w]e may safely assume that if the Operation Overt (airline) plotters had, in the earliest stages of their conspiracy, been placed on control orders and subjected to the full gamut of conditions available under the present legislation, they would be living amongst us still...’

The review recommends the ending of some of these measures. To order a T-pim, the Home Secretary will be required to have a ‘reasonable belief’ that an individual is involved in terrorism, rather than the lower threshold of ‘reasonable grounds to suspect’. But curfews will still exist in the form of overnight residence requirements and electronic tagging will remain. Neither would deter a committed terrorist. The review speaks of imposing ‘only limited restrictions’ on using telephones and the internet, freedom of association, and geographical bans but gives no indication of what in practice this would mean. In his conclusion Lord Macdonald says further explanation is required and will only then reveal the extent to which the coalition is committed to the ‘re-balancing of public policy in favour of liberty.’

However, the Government has decided to continue the control order regime at least until the end of the year. That means that control orders are still being issued and the full range of measures is still available to the Home Secretary and even the worst aspects of control orders, including relocation, are still being imposed on those accused of terrorist activity.

For civil liberties lawyers and campaigners the review can only be considered a disappointment and a failure. The full extent of the recommendations is not properly outlined, though are likely to be debated later in the year. To that extent, there may still be an opportunity to prevent the transparent rebranding of control orders. The Government, which previously said ‘We didn’t know the whole story’, will now tell Parliament ‘Only we know the whole story: trust us’. It will require brave and honest politicians to refuse to be blackmailed with fear of the unknown and appeals to specious and unspecified security service demands.
Last year Naval Leading Medical Assistant Michael Lyons received a draft order to deploy to Afghanistan. Lyons had become increasingly concerned about the UK’s military involvement in Afghanistan. Worried about the level of civilian casualties, he researched the political reasons for the war and was dissatisfied. Then a large number of military documents released by WikiLeaks, along with general concerns about his role as a military medic, led him to the conclusion that on moral grounds he could no longer serve in the Forces. He, therefore, requested to leave the military on grounds of conscientious objection. Having been turned down by the Navy, he appealed. On 17th December 2010 Lyons was rejected by the Advisory Committee on Conscientious Objectors. In accordance with the Committee’s practice, no reasons were given for their decision. Since making his conscience known, Lyons has experienced mockery and ridicule from his fellows and attempts were made to pressurise him into changing his mind. Indeed, his family describe the Navy as having put him through ‘hell’. Lyons remains in the military and has been charged with wilful disobedience because of his refusal to undertake rifle training in preparation for deployment in Afghanistan.

In asking for an honourable discharge on grounds of conscientious objection, Lyons was using a long established procedure for objectors within the military. However, the rejection of Lyons’s appeal arguably also forms part of a longer history of the failure to implement legal provisions which allow for the recognition of military conscientious objectors. Alongside this, both his experiences of poor treatment within the military and his likely punishment for refusing to violate his conscience are also by no means unprecedented.

At the moment, although there are measures allowing for the release of military conscientious objectors, they, along with the procedures for assessing claims of conscience, are flawed and are apparently sometimes bypassed. Their existence is also veiled in secrecy, with few Service personnel aware of their existence. As a result, some objectors take matters into their own hands, choosing to go absent without leave and suffer the consequences rather than act contrary to their beliefs.

Since 1970 regulars and reservists who develop a conscientious objection have been able to ask to leave the Services. There is separate provision for this within the Queen’s Regulations for each branch of the Armed Forces. If refused by the Army, Navy or Air Force, a Serviceman or woman can appeal to the Advisory Committee and hope for a favourable recommendation to the Secretary of State. However, the measures, along with the procedures for making a claim and the information we have about how objectors are treated in practice, raise serious concerns.

Under the Queen’s Regulations, conscientious objectors within the military can apply to leave the Forces but, as Lois S. Bibbings argues, the reality can be very different.
Perhaps most fundamentally the regulations include no clear definition of conscientious objection, leading to potential confusion and inconsistency. It is generally assumed that an objection should be to ‘military service’ rather than to taking part in a specific operation but this is not entirely clear. In addition, there is not always a precise line between general and selective objection. Lyons, for instance, started with an objection to involvement in Afghanistan but his stance appears to have become one of more general objection. In the light of this, it is possible that Lyons’s application was rejected because his objection was interpreted as relating to involvement in Afghanistan alone. But as neither the military nor the Advisory Committee gives reasons for their decisions, this is just speculation. In contrast, there is at least a clear statement from the Ministry of Defence (MOD) that objections can be religious, moral or political – although it is unclear whether this is applied in practice.

There is little information about how the conscience provisions are implemented. MOD figures, released in response to freedom of information requests, merely reveal that 59 women and men have been recorded as having applied for release from the military on grounds of conscience since 1970, 43 of these requests were granted by the relevant branch of the Armed Forces, 14 (including Lyons) then went on to appeal to the Advisory Committee, of whom three were successful. However, there are good reasons for thinking that these figures are not an accurate representation of the number of claims of conscience within the military. Indeed, the MOD itself acknowledges that the records of conscientious objector applications may not be complete. For example, the Royal Air Force (RAF) holds no information on this subject for 1970-2000 and no information is available about the sole application recorded as originating in the Army. The fact that 55 of the 59 objector applicants were in the Royal Navy also suggests that different branches of the Forces might be responding to claims of conscience differently, which is perhaps not surprising given that each have their own separate conscience provisions.

There is also some evidence to suggest that informal rather than formal legal means are sometimes employed to deal with objectors.
Personnel who wish to leave the military are apparently sometimes discharged on other grounds, whilst reservists who resist recall are rejected by similar means. In addition, informal means are apparently often used to deal with selective conscientious objectors – with an alternative role or deployment being offered as a solution. If this is indeed the case then not only is the formal legal provision for objectors often being bypassed but also the official figures are cast in even more doubt.

The provision for objectors has been and remains a well kept secret. A number of personnel have maintained that they felt themselves forced into disobedience rather than acting against their consciences. In 1990 Victor Williams, then a Lance Corporal in the Royal Artillery, felt unable to serve in the First Gulf War. Unaware of any possibility of claiming conscientious objection, he went absent without leave and was tried by court martial and sentenced to 14 months’ incarceration. At his trial he explained that had he known of the provision for conscientious objection he would not have acted as he did. In 2003 Mohisin Khan, a Muslim and a reservist medical assistant in the RAF, refused to respond to a recall to service, in part, because of his objection to military involvement in Iraq. He was court-martialled for being absent without leave, convicted and sentenced to seven days’ loss of privileges. His defence, that he did not know about and was not given information concerning conscientious objection, was unsuccessful. In 2007 Joe Glenton, a Lance Corporal in the Royal Logistic Corps, went absent without leave when he found he was to be deployed to Afghanistan for a second tour. Glenton maintained that he had gone absent because he had conscience-based concerns about the UK’s involvement in Afghanistan and that he would have applied to leave the Forces had he known that this was possible. He too was convicted and sentenced – this time to nine months’ military detention and he was reduced to the ranks.

In each of these cases the question of whether selective as well as general conscientious objection is provided for by the regulations remained unresolved – as did the question of the possible foundations of a legitimate objection. But in all three of these cases the military confirmed that there was a well established procedure for conscientious objectors which the men could have used. Had they known this and done so, of course, there is no guarantee either that their case would have been dealt with through the formal legal route or that they would have been successful.

This gap between the existence of legal measures to accord recognition for military conscientious objectors and the reality of non-recognition, alongside ill treatment and punishment, urgently needs to be addressed. It is, however, by no means a new problem. For example, nearly a century ago the 1916 Military Service Act, which introduced conscription in Britain, provided a procedure for the exemption of conscientious objectors to the military. There was, though, much evidence that the measure was not always being implemented and many undoubtedly genuine objectors suffered harsh treatment and punishments within the military as a consequence of continuing to abide by their beliefs. It was not until the Second World War that the principle of allowing for the recognition of conscientious objection within the military was established. As a result, up until the end of National Service in the early 1960s, objectors to and within the military could apply for exemption or release. However, the tendency towards non-recognition and poor treatment continued through this period.

The more recent concerns about military conscientious objectors have been the subject of criticism from various quarters for some years now. Currently, calls are being made for the Armed Forces Bill 2010-11 to address some of these problems. ForcesWatch, for example, argues that accessible and transparent provision for objectors in all branches of the Armed Forces should be included in primary legislation rather than within regulations. More needs to be done in order to ensure that the rhetorical recognition of military conscientious objection becomes a reality. Indeed, further thought and research might usefully be invested in what exactly we mean by conscience in the context of the Forces and what form the recognition of conscientious objection should take. The latter are important issues, not least for serving (and former) military personnel, lawyers and, of course, the MOD itself.

Lois S Bibbings is a Senior Lecturer in Law at the University of Bristol
Aristides and Dona Lindu. His rise to become President of Brazil is in itself an astounding story given the gross inequalities of wealth which pervade in Brazilian society. In 1952 his mother took the family on the well trodden migration route away from the North-East as they followed Lula’s father to São Paulo’s port of Santos in the industrialised south of Brazil. It is here that the young Lula in the film first works in the street as a shoe shine and selling oranges. Much to his alcoholic father’s disgust Lula and his siblings are enrolled by their mother in primary school where he flourishes. She later ensures that he trains as a metal worker.

This is very much a film about the influential relationship between the young Lula, portrayed in the later parts of the film by Rui Ricardo Dias, and his mother, played by the veteran Brazilian actress Glória Pires. We are taken as far as 1980 in the film’s narrative during which time Lula endures personal tragedy and in 1975 is elected president of the Metalworkers Union of São Bernardo do Campo and Diadema. The backdrop to this period is the dark days of Brazil’s military dictatorship which remained in power from 1964 to 1985.

The best parts of this uncritical biopic are where rarely seen clips of documentary footage of the mass strikes and protests led by Lula are interspersed with the film itself. Lula himself was arrested and imprisoned for his role as an influential union leader. As with Glauber Rocha’s Black God, White Devil, this film does not offer up a depiction of those Brazilian tropical clichés of football, carnival and beaches. The only glimpse of the exotic is when the young Lula goes to the cinema in São Paulo where he catches a brief sight of some newsreel showing the cable cars on the Sugar Loaf and a couple playing on a beach in Rio de Janeiro. It is a world away from his urban struggle to survive, the metal workshops and the dangers of taking a highly visible role in the trade union movement in the face of a repressive military dictatorship, all of which proved so formative in Lula’s later political emergence.

Lula’s two terms in office as President of Brazil began in 2002. The documentary Entretatos by João Moreira Salles offered up an insightful backstage depiction of Lula’s 2002 campaign for presidency. This is not to be found in this film. Lula left office at the end of 2010 with approval ratings of 80 per cent having been credited with lifting at least 20 million Brazilians out of absolute poverty owing to social

Reviews

Rising son

Lula, the Son of Brazil (2009)
Directors – Fábio Barreto & Marcelo Santiago. 130 mins, Costa Films & Globo Filmes

Glauber Rocha’s 1964 film Black God, White Devil stunningly captured the arid unforgiving scrubland of Brazil’s North-East otherwise known as the sertão. It is from this impoverished landscape that Fábio Barreto’s film starts. Sadly Lula, the Son of Brazil lacks the artistic verve of Rocha’s depiction of religion, violence and the last days of the cangaceiros, the bandits who roamed the sertão. The film instead adopts a more formulaic path as it charts the birth of Brazil’s first working class President from his poor origins in rural Pernambuco state through to the pivotal role he played in the mass strikes of the metal workers in São Paulo during the 1970s.

Lula, the Son of Brazil is an adaptation of the book of the same name by Denise Paraná. Luis Inácio Lula da Silva was born in 1945. He was the seventh child of his parents.

Below: The actor Rui Ricardo Dias plays President Luiz Inácio Lula da Silva in Fábio Barreto’s film.
Poisonous headlines

The war on terror orchestrated by the Bush administration to justify regime change in Iraq was sadly the reason why five Algerian men were prosecuted in this country for a conspiracy named the Wood Green ‘ricin plot’. Had the five men been found guilty by the jury at the Old Bailey on 8th April 2005 we would no doubt have seen an immediate shift by the Blair Government to bring in draconian measures to crackdown on our freedoms and permanently change the landscape of our civil liberties. Fortunately, the truth prevailed and the misguided prosecution of these Algerians based on seeds, recipes and photocopies delivered what could only be said as an attempt by the Government to meddle with due process and create a false perception of a risk to public safety for their own benefit. However if you were to read the news headlines after the trial you may be mistaken for thinking that there actually was a ‘ricin plot’, especially as the Government made no attempt to rectify this misconception. Instead story upon story were propagated about the continued risk to the public and both Government and police spokesmen fuelled this further by stressing an urgency in the change of the law to allow for longer periods of detention.

Although the Blair Government lost the vote on proposals for 90 days detention without trial later in the same year, it should not be forgotten that controversial Control Orders were introduced in March 2005, while the Old Bailey jury deliberated. The same evidence that had just been tried and tested was then used to invoke the Control Orders against all those planning to use toxic chemicals in the UK. Regardless of that, those were the grounds of each of the verdicts that found no poison had been found!

The book goes into some detail to highlight the fictional reporting that took place both at the time of the police raids in September 2002 and January 2003 and the lack of reporting during the trial when inconveniently to the media the conspiracy started to unravel. The book also gives an in depth account of the impact that wider events had before and after the trial on the men at the centre of this case and a chronology of the events that led to their arrests. These were not to be found in newspaper articles. This unique collaboration also demonstrates the importance of the jury system which is able to stand up to the might of the Government in order to protect the fundamental cornerstone of due process and the spirit of those who look beyond the headlines for the real story.

This is the real story and one that needs to be read.

Tim Potter

The day before news of the ricin find made the headlines, government scientists had established definitively that no poison had been found!
Righting wrongs

Dr Michael Naughton can justifiably claim to be a leading expert on the subject of wrongful convictions. In January 2005 he established the UK’s first Innocence Project at Bristol University where he is also a Senior Lecturer in Law. His work, and that of his colleagues at the Innocence Project, has been instrumental in a number of decisions by the Criminal Cases Review Commission (CCRC) to refer cases back to the Court of Appeal. Naughton, well acquainted with the fallibility of our justice system, is the perfect candidate to draft this booklet.

Most readers will be familiar with the more famous cases of wrongful convictions, such as the Birmingham Six and Guildford Four. One of the purposes of this book, though, is to challenge the perception that such cases are confined to a murky past of corrupt police officers and a complicit judiciary. They continue to occur for a variety of reasons; false confessions, incompetent police or defence work and police misconduct to name but a few. Naughton argues that the procedural limitations of the appeals process and the CCRC – particularly the general requirement that new evidence can only be considered if it was not available at the original trial – means that those who have been wrongfully convicted are not always able to overturn a verdict on appeal. They also face significant disadvantages within the prison system as continued claims of innocence can result in longer custody and lack of access to rehabilitation programmes.

His criticisms of how little allowance the justice system makes for the possibility that innocent people can get caught up in it seem fair. He argues that innocence projects have a better approach to reviewing cases than the CCRC or Court of Appeal because they focus on proving ‘factual innocence’ and looking at the whole of a case, rather than simply searching for a procedural anomaly that may have made a conviction ‘unsafe’. Ultimately though, to clear someone’s name a central goal of an innocence project must still be overturning their conviction. They must therefore also work within the legal framework of appeals which is not strictly concerned with factual innocence but simply whether a conviction is safe.

Naughton dedicates a chapter to the fact that those who have successfully had their convictions overturned still face stigma. He argues that we must restore the presumption of innocence. The chapter in question does not offer any advice on how this is to be done per se, but lists cases of people who have successfully overturned their convictions but have continued to face criticism in the media.

This booklet highlights the problems faced by the wrongfully convicted who are stuck within a system which cannot accommodate innocence. However, its main purpose is not to campaign on their behalf, but instead to offer guidance on how to challenge wrongful convictions. There is a comprehensive overview of the appeals process and relevant law, advice on how to gather evidence to challenge a wrongful conviction and even pragmatic advice such as how to launch a media campaign. In that respect, practitioners are clearly not the intended target of this book as they are likely to be familiar with much of the legal guidance. For the wrongfully convicted and their families and friends who want to challenge their convictions, this book will be of great assistance.

Michael Goold

Protecting due process

The second edition of this accessible practitioners’ handbook, updated five years after its first print run, still stands out as one of the leading texts. Although the core principle of when a Court should stay proceedings as an abuse of process is relatively straightforward, i.e. where a defendant cannot receive a fair trial or, where it would be unfair to try the defendant, the main difficulty practitioners face is knowing how, when and in what forum to raise a successful argument.

Dealing with these pragmatic issues is the very strength of this text. It comprehensively covers in individual chapters the arenas in which the practitioner can consider and raise an argument, from the police station, the Magistrates’ Court through to the Crown Court. Each of these chapters is covered by an expert in that particular forum; respected Solicitor Nev Niyazi deals with the police station and leading counsel such as Paul Hynes QC contribute to the Court chapters.

The book deals not only with all the areas in which a ‘classic’ abuse of process can arise, for example unfair conduct, non-disclosure, destruction of evidence. A whole chapter is dedicated to the potential to stay proceedings where the defendant is not able to effectively participate in his own trial either through mental disability or through their age in the case of children. Since the case of V and T v UK, involving the two young defendants in the Jamie Bulger murder, the Courts have grappled with what steps to take in order to ensure that an individual can effectively participate in their own trial in order to be compliant with the fair trial standards enshrined in Article 6 of the European Convention on Human Rights. This book covers the ground from V and T to discussions about various techniques the Court has adopted for assisting vulnerable defendants and is essential reading for anyone who represents children or vulnerable adults in the criminal courts.

Anna Morris

The other considerable strength of this book is the breadth of its research. As one of the most sparingly used jurisdictions exercised by the Courts, it is difficult to find contemporary and reported cases. However, the authors have collated both first instance transcripts and unreported cases in order to demonstrate the development of fertile areas for abuse of process arguments; for example the increasing number of complex fraud cases suffering from a prejudicial lack of disclosure.

Finally, the text’s clear layout and indexing, improved from the last edition, means that it is easy to reference and navigate. It also contains within its appendices core statutory instruments including the Attorney General’s Guidelines on Disclosure as well as sample skeleton arguments and a short insight on tactical and practical considerations. This really is a book that is not meant to sit on the bookshelf gathering dust; it is meant to be used and provides an invaluable tool to any lawyer or law student who is alive to protecting due process and the right of their client to a fair trial.

Michael Goold
Join the Haldane Society of Socialist Lawyers

☐ I would like to join/renew my membership of the Haldane Society

Rate (tick which one applies):
☐ Students/pupils/unwaged/trade union branches/trades councils: £20
☐ Practising barristers/solicitors/other employed: £50
☐ Senior lawyers (15 years post-qualification): £80
☐ Trade unions/libraries/commercial organisations: £100

Name (caps) .................................................................
Address ........................................................................
Postcode .................................................................
Email ....................................................................... E-mail: .......................................................

☐ I would like to join/renew my membership of the Haldane Society

Rate (tick which one applies):
☐ Students/pupils/unwaged/trade union branches/trades councils: £20
☐ Practising barristers/solicitors/other employed: £50
☐ Senior lawyers (15 years post-qualification): £80
☐ Trade unions/libraries/commercial organisations: £100

Standing Order Please transfer from my account no:........................................................
Name of Bank ...........................................................
Address (of branch) ..................................................................................

To the credit of: Haldane Society of Socialist Lawyers, Account No 29214008, National Girobank, Bootle, Merseyside G1R 0AA (sorting code 72 00 05) The sum of £........................ now and thereafter on the same date each month/year* until cancelled by me in writing (delete where applicable)

Signed................................................................. Date..............................

Please send this form to: Membership Secretary, Haldane Society, PO Box 64195, London WC1A 9FD

Never miss an issue
Scan or photocopy this page if you don't want to rip up your copy of Socialist Lawyer