Justice at last?
by Michael Mansfield & David Renton

PLUS: Privatisation, Legal observers, Colombia, Spain, Paraguay and more
The Haldane Society was founded in 1930. It provides a forum for the discussion and analysis of law and the legal system, both nationally and internationally, from a socialist perspective. It holds frequent public meetings and conducts educational programmes. The Haldane Society is independent of any political party. Membership comprises lawyers, academics, students and legal workers as well as trade union and labour movement affiliates. The list of the current executive, elected at the AGM in November 2011 is as follows:

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The 12th September 2012 was a momentous day as the Independent Panel on Hillsborough published their report in Liverpool. There were parallels with the outcome of the Bloody Sunday inquiry, observes Haldane President Michael Mansfield QC, who has been closely involved with this most recent Hillsborough inquiry. He writes in this issue about the search for justice by the tenacious relatives of the victims of Hillsborough and the staggering collusion between the State and the media in covering up the truth about what happened on that tragic day in 1989. Barrister David Renton also provides an examination of the background and issues exposed by the Independent Panel. As I write, the Attorney General Dominic Grieve QC is in the process of announcing to Parliament that he will apply to the High Court to have the original inquest verdicts of ‘accidental death’ overturned.

With the Olympics having finished, attention is once more focussing on the coalition Government’s ideologically driven austerity programme which appears to be doing little to alleviate the economic difficulties afflicting the UK at this present time. The Conservative’s use of the simplistic metaphor of the country’s economy being like a household budget is being exposed. It is difficult to forget the scene of George Osborne being booed by a capacity Olympic stadium during the Paralympic games.

The Olympic games laid bare the notion of private sector efficiency in delivering essential public services as the army had to be drafted in in some numbers to provide the security that G4S could not deliver. Despite the G4S debacle, privatisation of public services remains something of a sacred cow for the coalition Government. Kevin Greenway from the PCS warns in his article of the problems that lie ahead in the planned privatisation of criminal court enforcement, including the criminal fine collection process.

The Olympic games saw a clamp down on protest, most notably with the arrest of Critical Mass cyclists on the night of the opening ceremony. The Haldane Society has for some time been training and organising legal observers to be present at protests such as the anti-EDL demonstration in Walthamstow in September 2012. The Haldane Society joined the TUC march against austerity and for a future that works on 20th October 2012. An NUS march is being arranged for 21st November 2012. As Stephen Knight explains in this issue, in these times of austerity it has become increasingly important for there to be well trained legal observers to help guarantee that people’s right to protest is upheld as an essential part of being in a democratic State.

There is a review of The Protest Handbook in this issue. The hope of the authors of that book is that they see well used copies of what is an accessible, user-friendly text on marches and demonstrations.

The right to protest seems to be under threat in Europe as well. As the journalist Pascual Serrano explains in his article in the magazine, a serious clamp down on protest is taking place in Spain, one of the nations so closely affected by the current European financial crisis, driven by the ruling right-wing Partido Popular.

An historic attempt at forging a peace process is underway in Colombia after five decades of conflict. The Colombian Government and the Farc are meeting initially in Oslo on 18th October 2012. The Haldane Society has an ongoing commitment to support human rights defenders and political prisoners such as David Rabelo in Colombia. During the last six years many Haldane members have travelled to Colombia on delegations such as the Caravana Internacional de Juristas and have created links with those who risk their lives on a daily basis carrying out human rights work in Colombia. In this issue there is analysis of the peace process and what is in store as well as a call for the voice of civil society organisations such as the lawyers cooperative Cajar and the victim’s advocacy group Movice, not to be lost in the negotiations.

We are extremely grateful to Linton Kwesi Johnson who has kindly permitted us to reprint his poem Liesense fi Kill on deaths in police custody. This poem featured in his book of selected poems Mi Revalueshanary Fren. His poems use Caribbean dialect and the rhythms of reggae and dub. As the introduction remarks to Mi Revalueshanary Fren set out, his poems are a powerful voice of disaffected dissent and radical politics. It is vital that such voices can continue to be heard.

Tim Potter, editor, Socialist Lawyer

This vindictive piece of Con-Dem legislation will raise concern across England and Wales. For some, it marks a long-awaited triumph for private landlords, but for many others it comes as a serious threat to their basic need for shelter and a home. The ‘consultation exercise’ that preceded its introduction saw 96 per cent of responses not wanting to see any action taken on squatting.

Out of 2,217 responses, 2,126 of those were from members of the public concerned about the impact of criminalising squatting, and only 10 people bothered to write in claiming to be victims of squatting.

Not surprisingly when squatting is reported in the media it often cites an example of the homeowner who ‘goes on holiday, and returns to find his home squatted.’ While sympathy can be extended in such cases, they are very rare and are often overplayed in the press for political gain. The reality is that for most people who squat it is because they do not have access to affordable accommodation, and it is in properties that have been abandoned for many years.

With a stroke thousands of ordinary working class people will possibly become criminals overnight, facing up to six months in jail and fines of up to £5,000. Yet questions need to be asked of this legislation, homelessness rates are rising, a hidden army of sofa surfers exist across the country, housing benefit caps are further placing the screw on many, and remember of course many of those receiving housing benefit are working.

Yet with the number of empty properties, according to the Empty Homes Agency, standing at 930,000 then we must ask – who is this law protecting? As socialists we can only see that it protects profiteering landlords and property speculators, properties are being kept empty to protect profits, and the new law does nothing but shore up this practice. In fact it can even be argued that the law is open to abuse by rogue landlords, which could mean trouble for even...
The end of civilised hearings

I t safe to come out yet? Those of us who work in employment law have already had to take on board the following changes: as of this April the doubling of the period during which an employee needs to be continuously employed in order to bring an unfair dismissal claim; the doubling of the amount of costs an employment judge can order without needing to refer the case to the county court; and the phasing out of lay panelists in all cases save discrimination.

In June 2012, the Government published its Employment and Regulatory Reform Bill, which in due course will mean ‘protected conversations’, under which managers will be empowered to force workers – ostensibly by consent – out of their jobs, save that employment judges will be banned from asking what was said by each side in the dismissal meetings (which will have taken place directly between manager and worker with no lawyer present) by privilege rules akin to the privilege a lawyer has with her lay client.

From April 2013, employment lawyers will contend with changes to public funding, with legal help being removed from all categories of claim save discrimination cases. The Government has also announced that from next summer, there will be for the first time fees for issuing Tribunal claims. The fees, at up to £1,500, are far higher than the equivalent fees in the county court. To crown the injustice, the fees are to be paid by workers only, with employers paying nothing.

Any readers pausing at this point to draw breath may realise that they have only reached the starting point of the Government’s plans. For in the middle of September 2012, the Government introduced a further three consultations, covering matters as diverse as workers’ rights on transfers of employment (which the Government belatedly admits it cannot diminish, as the source of the law is European rather than domestic), Tribunal procedure, settlement and compensation.

The most significant change to the procedural rules is a new power that a Judge can strike out a claim at any stage in the process. Gone will be the old fashioned Case Management Discussions, slow, civilised hearings at which the Judge grapples with what the case is about and lists it accordingly. In place of them, every hearing will be what we now call Pre-Hearing Reviews, i.e. hearings, with or without evidence, where the employer jockeys, rarely with success where the worker is represented, to have the entire claim dismissed with no further hearings.

This ‘reform’ is a Government concession to the employer’s lobby, with its bogus argument that the majority of Tribunal claims are vexatious. In fact 60 per cent succeed, and only 0.5 per cent are so unreasonable as to attract costs.

The Government proposes to encourage settlement by introducing a new rule that cases may not be brought until the worker has submitted the claim first to the conciliation service Acas and received back from Acas a certificate that the claim has been lodged with them for a period of time without being settled. It is envisaged that a certain amount of information will be needed to be given to Acas. What that information will be, the Government has not decided. Acas will be able to refuse to accept some claims. However there has been no real thinking about what would happen to time limits, e.g. if the refusal had been misguided.

As an inevitable by-product, this will mean that the limitation periods for introducing tribunal claims which are presently relatively simple – three months but the time can be extended, in certain exceptional circumstances – will become very complex indeed. It will be rich pickings for respondent lawyers, who will raise time defences in very many cases, but of no benefit to many cases, but of no benefit to workers or even to Judges who face lengthy, complex hearings on issues far from the real subject of the case.

Changes to the maximum compensatory award that can be made for unfair dismissal, will reduce the top award from its present £72,000 to a future £62,000. Only a minority of dismissal claimants are in fact awarded more than £26,000. This is in part because the highest value claims with the most extraordinary facts inevitably settle. The workers in this category will have the same complaints and the cases will have the same outcome. Employers will be desperate to keep their bad facts away from the Tribunal. The chief difference is that managers who behave badly will be able to get rid of these cases by throwing less money at them.

David Renton

Existing tenants – who may have a tenancy agreement that the landlord will deny. The legal process has been hijacked by an elite minority that has seen it to that criminalising squatting in residential properties be a priority. It is an ideological attack using rhetoric that has no basis in reality and is there with the sole reason to defend private property rights – usually affecting landowners who have left property vacant for many years.

The attack against squatting is a marked shift not only in the campaign against people now facing homelessness, but one to defend private property rights over the human right to shelter.

Paul Heron

17: The Crown Prosecution Service says it will not prosecute the three G4S security guards for manslaughter over the death of Jimmy Mubenga, an Angolan refugee who died after being escorted on a flight from Heathrow two years ago. Mubenga’s wife, Makenda Kambana said the family were distraught at the decision.
Immigration detention and privatisation in the US and UK

The immigration detention industry is sizeable in the USA, with approximately 33,000 detainees, costing the Government $5.5 million a day. It is also the ‘fastest growing manner of incarceration’ according to Al Jazeera. Despite the number of unauthorised migrants from Mexico being at its lowest point, the USA is detaining and deporting more unauthorised migrants now than at any other point in history.

In the US, almost half of those immigrants detained by federal officials are in facilities run by private, for-profit prison companies such as the Corrections Corporation of America (CCA) and the GEO group. These companies are currently enjoying unprecedented profits, with 13 separate contracts from the Federal Bureau of Prisons adding up to $2 billion. Such federal contracts amount to 43 per cent of the revenue of the CCA. Any change in immigration law, consequently, is seen as a ‘business risk’. ThinkProgress.org and AP have pointed out, that behind the scenes of these contracts lies a particularly striking lobbying campaign, with $45 million spent by three big private prison companies on lobbyists at State and federal level, as well as on large campaign donations.

A 2011 Justice Policy Institute report discovered that the private prison industry has spent millions pushing to incarcerate more individuals and increase sentences. According to The New York Times, the controversial Arizona immigration bill SB 1070 was passed with 30 out of 36 co-sponsors who enjoyed donations from the private prison companies or their lobbyists. This is clearly a case of a fox guarding the hen house, as the privatisation of the immigration detention system in the US leads to the industry pushing for those laws which bring further profit to their companies.

There are numerous examples from a number of Think Progress.org articles of how a profit incentive can lead to a poor service and even foul play, including the GEO Group understaffing in their prisons to cut costs and a Pennsylvania State judge who sent young offenders found guilty of ‘pranks’ and other similar wrongdoing which should warrant probation to private prison facilities in return for bribes – the 2011 ‘cash for kids’ scandal. Al Jazeera reported unauthorised migrants in detention being paid $1 a day for their labour in kitchens and toilets by companies such as GEO to ‘offset their costs’, a painful irony when one compares the USA’s harsh stance on employers who hire unauthorised migrants under the same conditions.

When a nation’s correction facility system sees an increase in prisoners as favourable market conditions imperative to expanding the business, there is a clear conflict of interest between profit and criminal justice. The USA is not the only example of the lucrative business of the detention of immigrants. In the UK, seven out of 11 long-term immigration detention centres are run by private companies, including G4S’s Brook House which has been described by Her Majesty’s Inspectorate of Prisons as one of the worst centres in terms of safety, with bullying and drug use rife, which is somewhat of a rarity for immigration detention. The privatisation of detention facilities and prisons should not be an aim of governments, as there are unfortunately far too many examples of how this system offers incentives for companies to ignore justice and decent treatment of detainees when there is a profit to be made.

Natalie Csengeri

July

18: The Supreme Court rules that recent changes to the UK Border Agency’s points-based system of skilled migration, visitor’s visas and family migration rules are unlawful as they had not been approved by Parliament. The Home Office responded that it would put a statement of the rule changes before Parliament that week.

18: The Daily Mail and the Daily Mirror are found guilty of contempt of court over their coverage of Levi Bellfield’s conviction for the abduction and murder of Milly Dowler. The jury in the trial were dismissed before they had reached a decision on a second charge against Bellfield of attempting to abduct Rachel Cowles.

August

6: The High Court rules that the Department of Work and Pensions broke its own rules on providing clear information to claimants, making benefit sanctions for failing to work unpaid unlawful. The court rejected arguments that the back-work-schemes amounted to ‘forced labour’.

No entry – except at a cost.
AGM will bring us into 21st century

Haldane’s Annual General Meeting will this year consider proposed amendments to our constitution to finish the process, begun last year, of updating it for the 21st century. This will include:

- Formalising our trustee structure rather than it being based on convention, by implementing a trustee board, the decisions of which will remain subject to the policy decisions of the AGM and Executive;
- Simplifying our membership regulations;
- Formalising the post of Socialist Lawyer editor;
- Updating time limits to account for modern communication technology; and
- Updating language.

Contact the Secretary or Assistant Secretary if you would like to see the proposals in full before the AGM.

Stephen Knight

Haldane Society Annual General Meeting

Thursday 15 November 2012 after Haldane Human Rights lecture at 6.30pm – 8.30pm: Palestine, Putney and the planet. Speaker: Michael Mansfield QC

The College of Law, 14 Store Street, London WC1E 7DE
See back page for more details

August

B: Simon Walsh, a barrister and former aide to Boris Johnson, is acquitted of possessing extreme pornography. The jury was unanimous in a landmark case over the boundaries of what can be described as ‘extreme’.
Haldane Vice-President honoured in Frankfurt

On 15th September 2012, Gareth Peirce was awarded this year’s Hans Litten Prize. The Hans Litten Prize is awarded every two years, and is named after one of the best-known labour movement lawyers of the Weimar Republic in Germany. Hans Litten sought to prosecute the Nazis for their crimes. He was taken into Schutzhaft, so-called ‘protective custody’, in 1933 and after years of torture and agony in concentration camps, including Esterwegen and Buchenwald, was driven by the Nazis to commit suicide at Dachau in 1938.

The prize has previously been awarded to Michael Ratner of the Centre for Constitutional Rights in New York, and to the Israeli opposition lawyers Lea Tsemel and Felicia Langer, among others.

Gareth Peirce has a strong sense of history. Her book Dispatches from the Dark Side: On Torture and the Death of Justice starts with the arrest in 1637 of the Leveller John Lilburne, and his torture and trial in a secret court, the Star Chamber, on the basis of secret evidence. He was freed in 1640 at the start of the English Revolution. History repeats itself.

The laudatio was delivered by Emeritus Professor Norman Paech, who is an active member of VDJ (Vereinigung Demokratischer Juristinnen und Juristen) and the left-wing party Die Linke. In May 2010 he was on board the MV Mavi Marmara when as part of the Gaza flotilla it was attacked by Israeli forces. He was one of the first to go public as to the truth of what had happened. His moving speech concluded:

‘Our laureate is a lucid advocate of the law who harbours no illusions. Neither her defeats in court nor public hostilities have ever made her doubt that it is her task and duty to protect the minorities from the majorities, to represent the pariahs of society, to bring the outcasts back to and bar hopelessness from judicial history. And her successes are quite numerous. As a civil rights lawyer, she is an indisputable expert, and she clearly sides with those who are politically prosecuted. This makes her a worthy winner of the award in memory of Hans Litten. Today’s award ceremony gives us the opportunity to spread Gareth Peirce’s reputation in Germany. Not mainly for her own sake but definitely to counter widespread and justified doubts about the legal system and politics with a truly realistic perspective of resistance and justice. The times of terror are not over and we need advocates who shall resist its being exploited. May Gareth Peirce pursue her work as relentlessly as ever. We do feel honoured that she has come to Frankfurt to accept our award and we hope to cooperate as friends in the future.’

In her quiet but compelling response, Gareth insisted that the prize was not for her, but for Hans Litten and his memory.

Bill Bowring

September

12: The independent report on the Hillsborough disaster, where 96 Liverpool fans lost their lives, delivers a damning verdict on the role of the police and the emergency services. The panel found that evidence was changed and attempts made to blame the fans. David Cameron told Parliament he was sorry for the ‘double injustice’ families had endured.

17: PC Simon Harwood, the Metropolitan policeman who struck and pushed Ian Tomlinson during the G20 protests, is sacked with immediate effect after a disciplinary hearing found him guilty of gross misconduct. The hearing panel said it was ‘inconceivable’ that Harwood could ever work as a police officer again.

Thousands of anti-fascists block the EDL in Walthamstow, east London.
Haitian human rights defender faces threats

In the last issue of Socialist Lawyer our International Secretary Bill Bowring wrote an article regarding the vital work being conducted by Mario Joseph of the Bureau des Avocats Internationaux (BAI). In particular the article focused on the organisation’s work representing cholera victims in their efforts to bring the UN to account for its role in causing the cholera outbreak following the earthquake in 2010.

Over the last year Mario has been subjected to various acts of intimidation due to the work that he is undertaking. The last two months has seen the intimidation reach unprecedented levels, with increasingly open displays of Government coercion. This has culminated in the dismissal of the chief prosecutor of Port-au-Prince Jean Renel Senatus, following his refusal to illegally issue arrest warrants against human rights defenders including Mario.

The Haldane Society, along with other organisations including the International Association of Democratic Lawyers, has issued a statement regarding the ongoing intimidation against Mario which we have sent to the following individuals:

- Jean Renel Sanon, Minister of Justice and Public Security
- Gerard Norguaisse, Chief Prosecutor of Port-au-Prince
- Jean Renel Senatus, following his resignation as Chief Prosecutor of Port-au-Prince
- President Michel Martelly
- United Nations Special Rapporteur on Human Rights Defenders
- Government of France
- Government of Germany
- Government of Italy
- Government of Spain
- Government of Switzerland;

Haitian human rights defender faces threats

Euro lawyers get organised

On Friday 14th September 2012, the European Association of Lawyers for Democracy & World Human Rights (ELDH) held its Executive Committee meeting. The meeting, which started with an intense political discussion on the crisis of capitalism and the role of lawyers in the working-class movement, was lively and constructive.

Participants came from Spain/Basque Country, England, Latvia, Belgium, Bulgaria, Greece, Italy, Germany, France, and Switzerland.

The Executive was presented with a report of successful activities in the past months, including ELDH sponsorship and participation in The Haldane Society’s Defending Human Rights Defenders Conference on 24th February 2012 at Amnesty International UK. ELDH paid for participation from Turkey and from Chechnya.

Future activities include:
- ELDH Training workshop on ‘Trial observation’. This will include training on observation of political trials, role of lawyers as observers, preparation, local activities, risks, statements, reports, contact with local lawyers, contact with judges, prosecutors, politicians & human rights organisations, 27th October 2012, 10h00 – 14h00, Bern, Switzerland;

October

8: A court rules that nine friends and backers of Julian Assange must surrender the bail money they offered to guarantee Assange would abide by bail conditions. The group is thought to have pledged around £140,000. The court said the cash had to be forfeited if the system of sureties was not to be undermined.

16: Theresa May halts the extradition of British computer hacker Gary McKinnon. The US State Department criticised the decision. In a move many immediately seized upon as deeply ironic, May told MPs she had taken the decision on human rights grounds. It is not thought that McKinnon owns a cat however.

19: The Court of Appeal rules that families of two servicemen killed in Iraq and two former soldiers who were badly injured can sue the Ministry of Defence. The court said that alleged negligence in failing to provide proper equipment for troops meant compensation claims could be launched.

Comment

Haitian human rights defender faces threats

Euro lawyers get organised

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Dave Smith, a blacklisted worker and chair of the Blacklist Support Group, started his talk to The Haldane Society on 11th October 2012 with a short video showing interviews from a number of construction workers who were blacklisted and some of the campaigns that the Blacklist Support Group has been involved in.

The lecture was titled ‘Struck out – why employment tribunals fail workers and what can be done’. Dave, a trade unionist, has constantly tried to improve conditions on construction sites up and down the country and has a 36 page file which details some of his past trade union activity, building sites he has worked on and information on his family. Dave lodged a claim against Carillion in the Central London Employment Tribunal and successfully overcame the time limit issues which many other claims failed to do. At the full merits hearing Carillion admitted that they blacklisted workers but the claim was unsuccessful as Dave was an agency worker and not employed by Carillion. The decision is currently being challenged.

The blacklisting in the construction industry, described by Professor Keith Ewing as the ‘the worst case of organised human rights abuse in the UK in the past 50 years’, was exposed in 2009 and is still to be fully investigated. Further action being taken includes: a unanimously backed motion from TUC delegates calling for a public inquiry and changes to the law on blacklisting; a complaint lodged with the Independent Police Complaints Commission to investigate allegations that the police supplied information to the Consulting Association; a mass legal action being launched against Sir Robert McAlpine; and the Information Commissioner’s Office has been asked to make the files public so that all the files are released to those who do not know they have been blacklisted and who may not have been in contact with the Information Commissioner’s Office.

David Renton, a barrister at Garden Court Chambers and author of Struck Out, represented Dave Smith at his Employment Tribunal against Carillion and continues to take his case further. His talk started with an analysis of the 1823 Master and Servants Act, under which breaking a contract of employment was considered a criminal offence, and went through to the effect of a strong trade union on the bargaining position of employees and the likelihood of returning to work after a dispute with your employer.

Looking to the future of the Employment Tribunal system, the changes being introduced under the coalition Government include a two year qualifying period for unfair dismissal claims, fees for lodging claims and removing the panel members. This does not paint a pleasant picture for claimants trying to enforce their employment rights. However victories can be won, as seen with the recent electricians dispute, through industrial action and commitment of workers willing to fight for their rights. The real victory will be when workers can get jobs on building sites and not have to worry about raising concerns over health and safety and being sacked for doing so.

William Dooley

See the back page for details of the next series of human rights lectures organised by The Haldane Society.
The cuts hurt – here’s proof

As part of its ongoing work on social mobility and diversity in the legal aid sector, Young Legal Aid Lawyers recently conducted a survey of its membership. Broadly, the idea behind the survey was to gain an idea of the barriers that young lawyers face getting started in the legal profession.

One of the most interesting trends to emerge from the data was also one of the simplest: that 62.4 per cent of respondents were women. And of the qualitative data, it was frequently the responses from female members that were the most poignant. ‘Now I have a baby, I am finding it increasingly difficult to manage the stresses of publicly funded work and the low salary’, commented one member. Another noted that ‘pupillages are won and lost on unpaid internships and placements. As the full time mother to a toddler, I cannot viably take up the opportunities I’d like to in order to set my CV apart.’ Or, ‘I am a single parent, which means it is inevitably difficult to balance childcare and work. …The cut in legal aid has caused difficulties as I am the sole earner.’

It is no understatement to say that legal aid is already a difficult area in which to get started. As the cuts contained within the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO) take effect – and firms are forced to freeze recruitment and pay rises rely more heavily on paralegals and interns and cut back on training – the situation will get worse. The results of our social mobility survey give rise to the concerning prospect that the burden of these cuts will fall disproportionately on women. This is just part of a wider trend. According to the revised Equality Impact Assessment published by the Ministry of Justice in July 2012, following the enactment of LASPO, ‘overall the reforms have the potential to impact a greater proportion of women’. That is, most of the clients who will no longer be able to access publicly funded legal advice will be female.

In turn, the legal aid reforms need to be considered against the larger canvas of the cuts to public spending. According to the Women’s Budget Group (WBG) – the financial brains behind the Fawcett Society’s judicial review of the 2010 emergency budget – the groups that will suffer the greatest reduction in their standard of living due to cuts in public services are lone parents and single pensioners, the majority of whom are women. And since 65 per cent of public sector workers are women, WBG say, it is they who are most likely to be affected as pay and conditions of employment deteriorate. Likewise, research commissioned by Yvette Cooper MP around the same time showed that of £8 billion net revenue to be raised by the Treasury by 2015, nearly £6 billion will be from women.

So what can be done about this? Depressingly little it seems. The Fawcett Society’s attempt to judicially review the budget on the basis that the Government had failed to have ‘due regard’ to the need to promote equality of opportunity between men and women, contrary to section 76A of the Sex Discrimination Act 1975, ended in failure. Refusing permission in December 2010, Mr Justice Ouseley noted that assessing whether the budget was discriminatory was a task better left to the Equality and Human Rights Commission (EHRC). But the EHRC report which followed in May 2012, was a damp squib. The Government’s approach to the legal aid reforms was singled out by the EHRC as being ‘fully in accord’ with the public sector equality duty under section 149 Equality Act 2010. The EHRC did have one criticism of the legal aid cuts. It was not the fact that 57 per cent of those affected by cutting legal aid for welfare benefits will be ill or disabled or the fact that 80 per cent of those affected by the cuts are in the poorest fifth of society. It was the fact that the Ministry of Justice submitted their data to the Treasury slightly late. A triumph of form over substance.

The TUC are encouraging their members throughout the country to conduct their own impact assessments of the effect of the public spending cuts on women. If this information does not change anything, then what, one might ask, is the point? And what is the value of YLAL’s data about our members and about the difficulties they face? The answer is that the importance of recording how these cuts affect society springs from the intrinsic value of bearing witness. So that – in the words of Marie Colvin, the inspirational Sunday Times journalist killed in Homs earlier this year – no one can ever say they did not know. Connor Johnston is the Co-Chairperson of Young Legal Aid Lawyers.
Legal observing is one of the areas of Haldane’s work which places the society’s members closest to the struggles which currently define our society. Haldane’s legal observers – not all of whom are members of the society – aim to support demonstrators at protests by bringing the skills of lawyers onto the front line of social conflict. Although we are independent of any demonstration that we observe, not participating as organisers or protesters, our role and actions are clearly informed by our politics. The Haldane Society is clear that our legal observers are there to monitor the wrongdoing of the police, not to participate in the policing of democratic protest.

On the ground at a protest, legal observers can be identified by their bright orange bibs emblazoned with the words ‘LEGAL OBSERVER’, their proximity to the centre of the action, and the fact that they are the only people calmly writing in notepads while heavily armoured officers are preparing a baton charge. Note-taking is one of the most important skills of a legal observer: the detailed, timed notes produced are useful evidence for civil claims later made against the police, or for helping to act in the defence of protesters prosecuted for their actions on the day. When collated later, they also help to build up a picture of police actions on the day, including patterns of arrest and stop and searches.

As well as note-taking, many legal observers choose to take cameras with them to record any police misconduct. However, it must always be borne in mind that a camera can only provide a limited view of what is going on, and that decontextualised images or videos which fall into the hands of the police may be more damaging than helpful to activists.

Whatever form of recording of police aggression is used though, the most effective role of legal observers is in using their close monitoring of police to prevent abuse in the first place. In a recent anti-fascist demonstration in Waltham Forest individual police officers, attempting to intimidate protesters by forcing them to take off face coverings using their power under section 182 cyclists on the Critical Mass bike ride during the Olympics, arrestee support by GBC, assisted by Haldane members, helped in reuniting many arrestees with their confiscated property, including bikes, as well as in facilitating the establishment of further longer term support mechanisms for arrestees.

While protesters, when the nature of legal observers is explained to them, tend to react extremely favourably to the presence of observers, the police reaction to their presence is incredibly variable. Reactions vary between forces, between situations, and even between officers. Whereas many police officers approach legal observers as being as inoffensive as journalists, many will attempt to obstruct observers, or to pick arguments with them in order to prevent them fulfilling their roles. Although it is uncommon, it is also not unknown for legal observers to be arrested. Minor assaults and aggressive actions by the police are unfortunately more commonplace.

Questions are currently being asked about what the future holds for Haldane’s legal observers. Most important among them is whether we should work increasingly closely with other groups, or preserve our organisational and operational independence. A plethora of legal observing organisations operating at the same demonstrations would be seriously counterproductive, potentially sending confusing and even conflicting messages to activists. It also squanders resources if training for observers, arrestee support services, and on the ground organisation is unnecessarily duplicated. However, our independence allows us to operate in the way we most see fit. Certain other organisations which participate in legal observing activities do not share Haldane’s ethos. According to research carried out by the organisation Netpol, Liberty has, in the past, fielded legal observers and was subsequently criticised for their perceived inappropriate levels of co-operation with the police. Other organisations may not offer the same professional level of training as The Haldane Society requires its observers to undergo.

The correct path for the Society most likely lies in finding a middle ground between independence from other organisations and integration with them. In the approaching trade union and student demonstrations Haldane intends to co-ordinate its actions with both GBC and the Legal Defence and Monitoring Group, so as to allow each organisation to share those elements of their work which they do best. No one benefits from sectarian rivalries: our differences on the politics and tactics of legal observing should not prevent co-operation among those organisations which see their roles as supporting activists.

As we enter an autumn of renewed class struggles, with large-scale protests against the Government planned for the coming months, Haldane will be there to support the movement. And whereas we may not ourselves be storming the barricades, we know which side of them we will find ourselves on.

If you would like to get involved, contact haldane.legalobservers@gmail.com

Stephen Knight is a pupil barrister and writes in a personal capacity.
Traveller rights activists targeted Eric Pickles’ Department of Communities and Local Government in a protest on 19th October to mark the one year anniversary of the eviction of Dale Farm. 250 activists, many of whom resisted the eviction at Dale Farm last October, and former Dale Farm residents descended on the government building in an attempt to ‘evict Pickles’. Protesters held 6ft caravan cutouts while 10 people scaled the building and occupied the roof with banners reading ‘Fight for Sites’, ‘End All Evictions’ and ‘Dale Farm Fightback’. Protesters accused police of being heavy handed, citing excessive force and use of dogs. Several arrests were reported.
On 12th September 2012 I had the good fortune to be in Liverpool’s Anglican Cathedral to receive the Report of the Independent Panel on Hillsborough. It was a momentous occasion reminiscent for me of a similar event in Derry two years before when I learnt the findings of the Saville Report into Bloody Sunday. The parallels were striking.

The result in both cases was achieved only by the extraordinary efforts of the victims, friends and relatives. Single minded, unstinting and persistent over decades. Vilified and obstructed. Despite rejected initiatives, they never faltered.

In both cases the initial fatal injuries were exacerbated by years of anguish and grief. The damage is immeasurable; broken hearts, homes and relationships. In the wake of the report on Hillsborough I was contacted by spectators who until this moment had been quite unable to speak to anyone about the trauma they witnessed and suffered.

A major contributory factor which compounded both disasters was the untrammelled propaganda peddled by agencies of the State involved at the scene. The victims and their families on Bloody Sunday were blamed, and characterised as armed terrorists or at the very least, sympathisers or fellow travellers. The army and the Government of the day colluded with elements of the media to circulate this version.
In the wake of Hillsborough the blame was firmly placed upon ‘drunken, ticketless Liverpool fans that forced their way through a broken gate and invaded the pitch.’ The Sun wasted no time in branding these lies as ‘The TRUTH’. According to the editor, Kelvin Mackenzie, it took him 23 years before he could see through this palpable tissue of smears. It s not just the News of the World that should have been closed down years ago. Matters got worse as rumours abounded that effectively Liverpool fans had killed their mates, stolen from their bodies, and urinated upon them. All shocking and despicable lies.

Above all else they had to endure the dismal failure of the judicial system and successive governments to unravel what really happened. Partly it was a lack of will because it did not suit the political agenda. The Widgery Report heaped the blame on the shoulders of the dead, as did the inquests of the 96. Only Lord Justice Taylor managed to focus accountability upon the South Yorkshire Police for Hillsborough.

No soldier was disciplined or prosecuted for the killings in Derry and no police officer was disciplined or prosecuted by the State for the deaths in Sheffield.

At least David Cameron came clean in both cases. In statesmanlike and authoritative speeches he unequivocally apologised and exonerated the victims. Poignant, since both touched the administrations of previous Tory prime ministers – Ted Heath and Margaret Thatcher. The Guildhall in Derry erupted along with thousands in the square outside. Applause broke out in the Anglican Cathedral in Liverpool with 20,000 at the evening vigil outside St George’s Hall. It was as if Liverpool itself had been vindicated and rehabilitated.

The question and answer session in the House of Commons was also powerful as MP after MP who had helped the struggle spoke with passion, while those who had done nothing, or been sceptical or hostile, stayed studiously silent. The culmination came with the Prime Minister’s clarion call ‘Let Justice Follow Truth’.

This has particular resonance because it was another Tory leader who coined the phrase ‘Justice is Truth in Action’.

On 11th February 1851 during a debate in the Commons on the subject of ‘Agricultural Distress’, Benjamin Disraeli was attempting to deal with the burden of taxation upon the ‘labouring’ and ‘suffering’ classes, as he termed them. He recalled the quotation ‘Grace is Beauty in Action’ and adapted it to justice for the purpose of describing the obligations of a Government Minister.

This clearly should be a benchmark for our system. But so far, beyond the efforts of Lord Justice Taylor, no judicial process has got anywhere near an appreciation of the magnitude of the malaise at Hillsborough. The various components involve the investigating police (West Midlands of all squads, ex-Birmingham 6); South Yorkshire itself (ex-maltreatment and failed prosecutions of miners at Orgreave in 1984); the prosecuting authorities including the DPP; the Coroner; Judicial Review; an unusual inquiry which Lord Justice Stuart Smith described as ‘judicial scrutiny’.

It was only when the power of public opinion rose up from the terraces and
galvanised the first e-petition to trigger a debate in Parliament that the pressure was overwhelming. Andy Burnham MP, ably supported by Maria Eagle MP, secured a commitment to disclosure of all the relevant documentation.

An independent panel was established to undertake and oversee this exercise under the auspices of the Bishop of Liverpool. The families, however, felt that the original remit was too narrow. An important extension was made requiring the panel to assess the extent to which the material they assembled added to the public understanding of events.

This was crucial because it meant they not only had the arduous task of collecting and collating the documents from many different sources, at the same time they would have to view them through the prism of the past. This was accomplished with the utmost efficiency and fairness. Added to this, the panel created a hermetic seal round their deliberations, right up to publication day. No leaks official or unofficial. No partiality. Families first. A perfect prototype or model for the future. It was the compilation of everything in one place, at one time by nine individuals distinguished in their various fields, which revealed the underlying pattern of how the truth had been corrupted. This at least was truth in action rarely observed in other judicial processes, however good the intentions.

In the light of this I have proposed that a permanent Truth Commission, with rotating membership, be established to examine examples of systemic failure or abuse. Such a body has to command respect for its independence of mind and spirit, its expertise and its dedication. These were the outstanding features of every single Hillsborough panel member. It is to be noted that there has been nothing but praise and admiration for their work.

Meanwhile we await with interest the result of the Chilcot and Leveson Inquiries, both of which are dealing with high level collusion, to see whether they can emulate the Hillsborough panel.

The final words must go to a Liverpool supporter’s website – the ‘Kop Blog’. Under the heading ‘Justice is Truth in Action’ appears the following observation:

‘The 96 can rest peacefully and those criminally responsible (Senior Police, Patrick, Mackenzie, the FA, Sheffield Wednesday FC, Sheffield City Council, South Yorks Police and Ambulance Service) will face justice... This cover-up has gone on for 23 years leaving a hole in the hearts of those searching for the truth; unnecessarily compounded by unsympathetic Government and politicians with legal obstacles every step of the way. Natural justice was denied.’

Hopefully by the time you read this article we will have discovered whether anything has changed.

Michael Mansfield QC
22nd September 2012
TWENTY-THREE YEARS WAITING FOR JUSTICE

by David Renton

Here is the voice of one fan: ‘We were forced right up against the barriers which prevent the fans from getting on to the pitch. During the match we had to constantly bear the crushing force of the crowd swaying forward from behind. It would not have been so bad if we had been able to move sideways, away from this central part, but it was so packed, and the constant pushing, jostling and surging of the fans made this prospect appear even more dangerous... Some fans actually collapsed or fainted and were passed over people's heads towards the front of this section of the ground... Some fans tried to open this gate but it had been padlocked.'

Here is a second supporter who attended the same game, ‘The whole area was packed solid to the point where it was impossible to move and where I, and others around me, felt considerable concern for personal safety. As a result of the crush an umbrella I was holding in my hand was snapped in half against the crush barrier in front of me. I would emphasise that the concern over safety related to the sheer numbers admitted, and not to crowd behaviour which was good.’

Neither fan was describing the scenes at the Hillsborough tragedy of April 1989. Both of these fans were frightened rather by their memories of an FA cup semi-final at the same stadium, at the same stage of the competition in 1988, the year before, a near-miss which was ignored by the club, the Football Association, and every other public authority.

The press coverage of the newly-published report of the Hillsborough Independent Panel has focussed less on the several warning signs that had been missed, but on the activities of those bodies that were charged with evacuating people in the event of emergency. The Yorkshire police, in particular, come out of the report with their reputation seriously tarnished.

The Hillsborough disaster took place on a Saturday. The very next day, police officers were called to a briefing at which they were instructed not to take notes in their pocket books, but to destroy them, and to record their memories instead in the form of written witness statements.

By the Thursday, i.e. just five days after the disaster, a solicitor had been found, Peter Metcalf then a senior partner at Hammond Suddards (since retired), to advise officers that there was no need to retain their pocket books, as the case would be investigated by way of an inquest, i.e. in civil litigation, and so the ordinary procedures needed for the investigation of crimes did not apply.

On the Wednesday following, there was a meeting of senior police officers, including DCC Hayes and Chief Superintendent Mole, and their standing counsel, Bill Woodward QC. Woodward was later a High Court Judge.

According to the notes of that meeting disclosed to the Independent Panel, ‘DCC Hayes informed Mr Woodward that the “main players in this are doing their own accounts”. He asked “is that OK or would you rather someone take their statement?”’. Mr Woodward replied, “It couldn’t be better. They can put all the things in that they want and we will sort them out”.

What Woodward appears to have grasped intuitively was the reason senior police officers were
The police force charged with public protection at Hillsborough was the same South Yorkshire police force which had acted with lawlessness and judicial protection during the miners’ strike of 1984-85

so keen to keep their junior colleagues’ notes away from prying eyes. Many junior officers were profoundly unimpressed by their senior colleagues’ behaviour on the day. The views of junior officers could have embarrassed the force. It was incumbent on the senior officers and their lawyers to do all in their power to suppress any information which could have embarrassed the force.

A further achievement of the Independent Panel has been to publish the alterations made by the police officers, so that we can see exactly what the rank-and-file thought of their commanders. They tell us that there were insufficient radios on supply, that there were too few officers at Leppings Lane, which was the centre of the tragedy, that the force’s organisation collapsed on the day, that senior officers showed no leadership, milled about, or excused themselves from the scene.

The most significant passages of the Independent Panel’s report are those dealing with the coroner’s finding at the original inquest that all 96 people who died had been killed by 3.15pm, i.e. within 15 minutes of the game’s scheduled start. It followed that the performance of the police, or of the ambulance service, which is also criticised by the Panel, was irrelevant, as all the victims had died too quickly for any medical attention to have done them any good even if there had been any. Based on this finding, the coroner reached a verdict of accidental death.

The medical basis of this finding was that the victims had all died of a single condition, traumatic asphyxia.

But, as the Panel have noted, 41 of the 96 victims showed signs of a medical condition ‘cerebral oedema’, i.e. brain swelling, which only sets in after sustained exposure to asphyxiation. Its presence shows that these victims were not killed suddenly, and certainly not by 3.15pm, but could have been rescued had the emergency services been operating properly.

Many Liverpool fans have long held the view that these failures were not accidental. The police force charged with public protection at Hillsborough was the same South Yorkshire police force which had acted with lawlessness and judicial protection during the miners’ strike of 1984-5. Within hours of the tragedy, its leading officers were in contact with the Home Secretary Douglas Hurd – there is no note of what was said – and in no time at all, the police cover up had enlisted the support of the Conservative Party and of Tory newspapers, including infamously The Sun.
When the Taylor report, which blamed the force for the tragedy, was first published, Margaret Thatcher toned down an initial press statement welcoming it. ‘The broad thrust is devastating criticism of the police’, she wrote, ‘Is that for us to welcome?’

The new Panel’s findings cast more light on the police cover-up, including the decision to test the dead bodies for alcohol which included the youngest victim, who was just 10 years old. The idea behind the tests was to gather information which could be fed to friendly newspapers in order to nourish the lie that Liverpool fans were football ‘hooligans’ and responsible for their own deaths.

The wrongness of the original inquest also cast light inevitably on the decision of the House of Lords in the case of Alcock v Chief Constable of South Yorkshire Police, in which their Lordships ransacked the common law for doctrines of wafer thin plausibility tending to exclude the police from liability to the families of the victims.

The cover up did not emerge from nowhere but was shaped by a class enmity. The Liverpool fans of 1989 had a place in the Tory imagination as the successors to the Toxteth rioters of 1981 and the Militant-run Liverpool city councillors of 1983-1987. Judging by Boris Johnson’s stint at The Spectator this memory has barely faded. Had this taken place at Glyndebourne or Wimbledon, it would not have taken 23 years for the truth to be admitted.

Some establishment voices have been quick to say that Hillsborough, while lamentable, could never happen again. But while football is certainly safer than it was, events such as the immediate press responses to the deaths of Jean Charles de Menezes or Ian Tomlinson show that our media remains willing to publish any lie, no matter how implausible, so long as the original source is a policeman.

Finally, the most remarkable feature of the report was that, having been set up in 2009, before the last election, its authors managed to survive the Tories’ ‘bonfire of the quangos’. Reverend James Jones, who chaired the panel, has been quoted as saying, ‘It is no secret that the incoming Government was not bound by the decisions of the previous Government and therefore I had to see various secretaries of State to make the case for the panel continuing at public cost when there were pressures on the public purse’. The Tories must be furious that they let the Panel report.

David Renton is a barrister at Garden Court Chambers
Sometime mi tink mi co-workah crazy
di way Kristen woodah gwaan jokey-jokey
den a nex time now a no-nonsense stance
di way she wine-dung di place laas krismus dance
di way she love fi taak bout conspirahcy

mi an Kristen inna di canteen a taak
bout did det a black people inna custidy
how nat a cat mek meow ar a dyam daag baak
how nobuddy high-up inna society
can awfah explaineshan nar remedy

wen Kristen nit-up her brow
like seh a rhow shi agoh rhow
screw-up her face
like seh a trace shi agoh trace
hear her now;

yu tink a jus hem-high-five an James Ban
an polece an solja owevah nawt highalan wan
wen it come to black people Winstan
some polece inna Inglan got liesense fi kill
well notn Kristen seh suprize mi still
but hear mi now;

whe yu mean Kristen
a who tell yu dat
a mussi waan idiat
yu cyan prove dat
a who tell mi fi goh seh dat
Kristeen kiss her teet
an shi cut mi wid her yeye
an shi seh yu waan proof

yu cyaan awsk Clinton McCarbin
bout him haxfixifaxan
an yu cyaan awsk Joy Gardner
bout her sufficaeshan
yu cyaan awsk Colin Roach
if him really shoot himself
an yu cyaan awsk Vincent Graham
if a him stab himself,
but yu can awsk di Commishinah
bout di liesense fi kill
awsk Sir Paul Condon
bout di liesense fi kill

yu cyaan awsk di Douglas dem
bout di new style batan
an you cyaan awsk Tunay Hassan
bout him det by niglect
yu cyaan awsk Marlon Downes
if him hav any regret
an yu cyaan awsk El Gammal
bout di mistri a him det

but yu can awsk Dame Barbara
bout di liesense fi kill
awsk di DPP
bout di liesense fi kill

yu cyaan awsk Ibrahim
bout di CS gas attack
an yu cyaan awsk Missis Jarrett
ow shi get her aer-attack
yu cyaan awsk Oliver Price
bout di grip roun him nek
an yu cyaan awsk Steve Boyce
bout him det by niglec
but yu can awsk di PCA
bout di liesense fi kill
awsk di ACPO
bout di liesense fi kill

yu fi awsk Maggi Tatcha
bout di liesense fi kill
yu can awsk Jan Mayja
bout di liesense fi kill
yu fi awsk Mykal Howad
bout di liesense fi kill
an yu can awsk Jak Straw
bout di rule af law

yu fi awsk Tony Blare
if him is aware ar if him care
bout di liesense fi kill
dat plenty polece feel dem gat

Sometime mi tink mi co-workah crazy
di way Kristen woodah gwaan jokey-jokey
den a nex time now a no-nonsense stance
di way she wine-dung di place laas krismus dance
di way she love fi taak bout conspirahcy

by Linton Kwesi Johnson

This poem was first published in Mi Revalueshanary Fren: Selected Poems (Penguin) in 2002 and is reproduced here with the kind permission of Linton Kwesi Johnson.

1. Died in police custody in 1987 whilst being restrained.
2. Died in chains in police custody in 1993 during deportation proceedings.
9. Dame Barbara Mills, Director of Public Prosecutions, 1992 – 8. Left her post early before what was seen as an unfavourable inquiry into the Crown Prosecution Service.
10. Isshima Say, died in police custody in 1996.
11. Cynthia Jarrett, who died in a police raid on her home.
12. Died in police custody.
The shambles that was G4S during the Olympics temporarily lifted the lid on the scandal of private companies plundering public coffers. As always, those that are seeking to exploit the aftermath of the banking and financial crisis post 2008 and profit from this have moved rapidly to put the lid back on.

They have a problem though with the number of private sector failures and bail outs that is arising, especially among NHS Trusts for example. The truth will out at some point and the full scope of the scandal of Private Finance Initiatives (PFI) will be revealed. Small wonder that public services allegedly cannot be afforded when PFI contracts issued by successive Governments are worth in excess of £268 billion and rising.

In July 2012, the Public and Commercial Services Union (PCS) was informed of the Ministry of Justice (MOJ) Corporate Board’s disastrous decision to go ahead with plans to privatise the criminal fine collection process including Fixed Penalty and Confiscation Units. It is absolutely clear that no part of the public sector is free from the threat of privatisation. The PCS registered our absolute opposition and warned the employer that we will step up our campaign of opposition; we sincerely hope that every reader of this article can help us in this campaign.

The abject failure of G4S and other privatisations was raised with the employer but the ideological pressure to deliver public services to the private sector ignores the dangers. This is entirely driven by the need for profit.

Members of the PCS have worked extremely hard to increase collection of fine rates. Last year on the Government’s own account collection rates increased by 14.5 per cent.

The PCS has been told of plans for a ‘Framework Contract’ within which Criminal Enforcement privatisation comes first. The PCS was also made aware of the real potential for future privatisation of general administration and so-called ‘back offices’. Work and staff across the MOJ and the wider Civil Service are now all in the firing line.

The proposed framework agreement is simply the vehicle that will enable the sell off of more public services and reduce the size of the civil service through a scaled down procurement process which seeks to avoid normal consultation arrangements. The anticipated contracts are of such a length that they cannot easily be ended by future Governments.

The Cabinet Minister Frances Maude has been to the fore in the push for mutualisation. The PCS has demonstrated that this is far removed from the labour movement concept of mutuality in the cooperative sense. This was originally proposed for fines collection but was dropped for a ‘Commercial Partnership’ whatever the model, this is entirely
the use of an Enforcement Blueprint which received wide scale judicial approval in 2008 but which has never been fully implemented or resourced, and we have urged full investment in what exists but without success. The MOJ cites an inability to fund IT improvements and suggests that staff cannot achieve the ‘step change’ necessary for continuous improvement.

There is nothing the private sector can do to improve the collection of fines that civil servants working for the court service cannot. Fines collection rates are improving due to the standardising of processes around the country and a more focused approach. This should be allowed to continue with additional investment to improve IT systems.

Privatisation has already failed in the justice sector. The private company operating the court interpreters contract has not delivered, causing delays and the postponement of cases; CitySprint the couriers hired to deliver CPS files to courts in London do not seem to be living up to their name and cannot deliver files on time; and private bailiffs, already employed by the courts, only collect between 20 and 30 per cent of the outstanding fines they are given. The PCS predict that the privatisation of criminal court enforcement will be a disaster; fines will go uncollected and confidence in the justice system lost. Help us stop this. The PCS have a range of campaign materials on our website which can be downloaded and used by those supporting us – follow this link:


We are organising a programme of meetings and protests at criminal enforcement workplaces across England and Wales. We need members from justice sector campaigning organisations to come along and give support. Check our website for a workplace event near you.

Kevin Greenway is the Ministry of Justice Group President of the Public and Commercial Services Union (PCS)
On 28th August 2012, Colombian President Santos, confirmed peace talks would take place between the Colombian Government and the Farc, writes Natasha Morgan. On 5th September 2012 the content of the agenda for the dialogues, signed by representatives of both sides in Havana, Cuba, was released.

Experts have reacted with cautious optimism. The agenda attempts to cover five central points, including agrarian development; political participation; the terms of ending the conflict; illicit crops; victims and truth. Issues such as the economy, national sovereignty and multinationals were left off.

Despite widespread enthusiasm in Colombian public opinion, civil society leaders have expressed some real concerns that need to be addressed. Among these is the need for civil society to have a voice in the process, and for it to tackle the root causes of the conflict, namely social inequality, if peace is to be achieved successfully. One of the most urgent concerns is the absence of a bilateral ceasefire.

Civil society organisations Colombians for Peace, has called for an end to hostilities on both sides, outlining, based on past experience, the fragility of any peace process conducted during ongoing military operations. They have also highlighted the urgent need to put an end to violence against civilians. The Patriotic March, a new political opposition movement including large sectors of Colombian civil society, including human rights groups and the trade unions, have added their voices to this call.

However, Colombian President Santos, speaking to the press following a meeting on 6th September 2012 with over 100 generals and officials from the Colombian armed forces, ruled out a ceasefire and said that he had asked the generals to ‘intensify their actions’.

Civilian casualties as a result of the conflict are ongoing, with recent bombings and machine gun fire on civilian homes reported by human rights groups in both the Cauca and Meta regions. The lack of a ceasefire also opens the process up to sabotage – something which is not unlikely, given the widespread activity of paramilitary groups. In addition, over 243 civil society activists have been assassinated during the first two years of this administration, many by members of Colombian State forces.

The violence generates serious concern for the guarantees that exist for safe political opposition. Just a few weeks ago, the Colombian Minister of Defence accused the Patriotic March of being financed by the Farc guerillas – a dangerous return to the previous government’s tactics of smearing any opposition. Opposition activists tell of a climate of fear, where death threats have shot up as a result of the peace talks announcement and these sort of comments. Given the horrors that occurred to the Patriotic Union, an opposition party that emerged during previous peace talks under President Betancur in the 1980s, and saw over 5,000 members, including presidential and congressional candidates assassinated by State forces and paramilitary groups, their fears are not without basis.

Several international leaders have welcomed the peace talks. British Prime Minister David Cameron said ‘We know from Northern Ireland how important it is to learn from past mistakes and to have the political courage to pursue peace. So I wish the President well in this important new effort... The UK stands ready to draw on its experience in support of the Colombian peace process as it progresses.’

Adolfo Pérez Esquivel, Argentine human rights defender and winner of the Nobel Peace prize, also expressed his support but made clear that there were obstacles to be overcome: ‘Colombia has a state with very corrupt levels of leadership, complicit in organised crime. Among them paramilitary and drug trafficking organisations. These are the sectors that increase their internal power and their bank accounts thanks to the war... This [peace] process cannot be resolved by the government and the Farc alone. If those interests are not confronted firmly and with sovereignty, no process of dialogue will last in time.’

The challenges ahead, such as the need for a ceasefire, ongoing threats against civil society activists, internal opposition from within the Colombian state, former president Uribe and the paramilitaries, highlight the need for international pressure to support those struggling for a lasting peace in Colombia.

Peace talks will take place with the support of the Cuban and Norwegian governments as guarantors and with the accompaniment of the Venezuelan and Chilean governments. According to the agreement, parties to the dialogue can invite other nations to accompany, as the process necessitates.

Justice for Colombia, the NGO of the British trade union movement, is working with parliamentarians, unionists and lawyers in the UK and Ireland, to gather experience and ensure that civil society and social justice are at the centre of any agreement.
Henry Díaz, opposition activist, was disappeared in April this year, before he was due to lead a demonstration of the Patriotic March social movement, calling for peace and social justice in Colombia.
During the last week of August 2012 the Colombia Caravana international delegation of lawyers spent eight days in Colombia, writes Sara Chandler. A group of 45 lawyers and judges from the UK, Ireland, Netherlands, France, Spain, Belgium, and Canada visited Colombia at the invitation of the Colombian national human rights lawyers’ association, ACADEHUM.

As we arrived the announcement of peace talks with the Farc heralded a new attempt to bring the five decades of conflict to an end. The conflict takes a high toll on human rights defenders, and the evidence we heard from the lawyers and judges we met demonstrates the high level of risk they face.

The delegation represented the international legal community, led jointly by the Bar Human Rights Committee, the Law Society, and the Chartered Institute of Legal Executives, with representatives of the Federation of European Bar Associations, Lawyers for Lawyers, Lawyers Rights Watch; Judges for Judges; Avocats sans Frontieres; Union des Avocats Internacional; and retired senior judges from Canada and the Netherlands.

The delegation divided into groups and visited several regions including: Medellín, Cali, Bucaramanga, Cartagena, Sincelejo, Yopal, and Narino. In each region we met local lawyers and judges, victims of paramilitary activities including internally displaced persons, families of the disappeared, and families of victims of extra judicial killings who gave evidence to the delegation. In some regions delegates met the leaders of the local indigenous communities affected by violence from the army and paramilitaries, and environmental damage to their ancestral territories, as well as members of the campesino communities and artisanal miners who have been forced off their land by paramilitaries. In most regions delegates met the local human rights ombudsman, the local police and army personnel.

The Caravana found evidence of the continuing victimisation and stigmatisation of defence lawyers and read comments from Government members, including the President, which were critical of the work of human rights’ lawyers. We heard evidence of the threats received by lawyers, including contemporaneous examples of paramilitary death threats by leaflets distributed in public naming individual lawyers. Lawyers’ professional duties and work for their clients is seriously affected by accusations of professional negligence which are later proved to be spurious and untrue. The delegation requested permission to visit two lawyers who were held in prison, but due to the prolonged national hunger strike by prisoners protesting against prison conditions, permission was withdrawn.

In 2010, the Caravana lawyers met Yira Bolanos, a lawyer who was imprisoned in June 2011. She was supported throughout her detention by Caravana members including a visit in 2011. Yira was released shortly before we arrived and spoke at the opening of the Caravana, on 26th August 2012 in Bogotá.

The Caravana was given numerous examples of how the Justice and Peace Laws, and the Victims and Land Restitution Laws are having the opposite effect to that intended and are putting people at serious risk. We were given evidence of the killings of people given the right to return to their land following application under the Land Restitution Law, who were killed by those currently occupying the land. Death threats to the lawyers representing people applying for restitution of their land, came clearly from paramilitaries, many of whom are occupying the land that they took from the original farmers.

Impunity remains a structural problem which directly affects the rights of victims. In meetings with the Colombian authorities the Caravana requested information as to what resources are dedicated to pursuing the perpetrators of killings, and in particular the murders of lawyers, and what protection is offered to those who are sent death threats. Delegates were given a document produced by the Fiscalia, the national prosecution service, which details the attacks, threats and assassinations of lawyers over a ten year period. Delegates were dismayed to read of
4,500 such incidents, confirming the extraordinary risks Colombian human rights lawyers face every day. The Caravana has written to protest the deaths of 12 lawyers in the first six months of 2012, calling for effective protection, investigation and prosecution.

A small group of the delegation, on behalf of the Alliance for Lawyers at Risk, interviewed many people in areas affected by mining companies or the African palm farms, about the United Nations Principles on Business and Human Rights (the ‘Ruggie’ principles). Sue Willman writes about this investigation in another article.

We watch as peace talks get under way from 18th October 2012 in Norway. The crucial question for the international legal community is still access to justice and the defence of human rights in Colombia. Peace talks without considering the victims of the decades of conflict will not produce a firm foundation for the future. To date civil society leaders who work with victims have not been invited to participate in the talks. If the spotlight on the defence of human rights is lowered, those lawyers who strive for justice in Colombia will be even more exposed, and the poor, the dispossessed, the families of the disappeared and the dead, and human rights defenders in every community will have no recourse, and no access to justice.

If you would like to support Colombian human rights lawyers, contact colombian.caravana@googlemail.com.

Professor Sara Chandler works in the Legal Advice Clinic at London South Bank University and is Chair of the Colombia Caravana and the Law Society Human Rights Committee.

David Rabelo, Colombian human rights defender imprisoned since September 2010. Haldane and Justice for Colombians are campaigning for his release.

Mothers of Soacha. Their sons and relatives were killed in extrajudicial executions by the Colombian army in 2008. Many are yet to receive justice.
In August 2012, I was sent to Colombia by the Alliance for Lawyers at Risk as a sub-delegation of the Caravana Internacional de Juristas, writes Sue Willman. The other delegation members were Mark Cunningham QC, a commercial silk with a Bar Human Rights Committee background, Sara Chandler, founding chair of the Colombia Caravana, and Neena Acharya a legal aid immigration solicitor. We each have a commitment to working on human rights issues in Colombia, dating back to our first visit with the 2008 Caravana. This time our mission was to investigate civil society’s awareness of the UN ‘Ruggie’ guiding principles on Business and Human Rights, to assess compliance by multinationals and to find out how lawyers in the UK could provide support. The message from lawyers, NGOs and even the judiciary was: ‘Please go home and sue British multinationals in the UK for their human rights and environmental abuses in Colombia.’

The UK is the second largest overseas investor in Colombia. The Foreign and Commonwealth Office and the Department of Trade and Industry have been actively pushing for British business to invest in Colombia after a recent visit to the UK by President Santos in which it was agreed to double two-way trade to £1.75 billion by 2015: [http://ukincolombia.fco.gov.uk/resources/en/pdf/pdf1/prosperity/infrastructure-report](http://ukincolombia.fco.gov.uk/resources/en/pdf/pdf1/prosperity/infrastructure-report).

Meanwhile the FCO claims, ‘The Government is fully committed to implementing the Guiding Principles as part of its strategy on business and human rights and expects UK businesses to operate at all times in a way respectful of human rights whether in Britain or overseas’. The UN Special Representative on Business and Human Rights, John Ruggie, has highlighted the difficulties in implementing the business and human rights framework in a conflict zone like Colombia. At an OECD meeting in Paris on 23rd June 2010 John Ruggie remarked that, ‘The worst corporate-related human rights abuses have taken place in areas affected by conflict, or where government otherwise lacks the capacity or will to govern in the public interest – where rule of law tends to score low, and corruption high.’

The links between the State and paramilitaries in Colombia are well-documented by organisations such as Amnesty International. We heard a number of accounts of national and multinational enterprises, as a third player, fuelling the armed conflict. One indicator of this is that Colombia remains the most dangerous country in the world to be a trade unionist, with 26 trade unionists killed last year and not one conviction for murder. Meanwhile the Santos Government’s plan to promote Colombia as a mining country encouraged by tax breaks, investment incentives and deregulation seems to be working; foreign direct investment in the mining sector reached $2 billion in the first eight months of 2012.

These themes converged when we visited Cerrejon, one of the world’s largest open-cast mines. It is partly British controlled by subsidiaries of BHP Billiton and Anglo-American. We had met British embassy officials who had told us it represented the best example of corporate social responsibility in Colombia. We saw schools and roads and health clinics which had been financed by the company. We also visited indigenous Wayuu communities who said the effect of the mine was that they had been forced to relocate from land they have roamed across for centuries into reservations. They explained that in the 30 years since the mine was developed they had gradually lost their traditional knowledge as trees and medicinal plants had died. They said some of their children and livestock were now born with disabilities or even still-born. We met representatives from the local miner’s union, SINTACARBON, who complained of health and safety and environmental breaches. They have issued a class action on behalf of members experiencing coal-related diseases and cancers.
They would welcome support such as an amicus from the UK.

We were moved by our encounter with 75-year-old Simon Soto Boyiru who showed us a bottle of black rainwater, the product of air pollution. Simon lives in the Provincial indigenous community on the banks of the River Rancheria, a couple of mines away from the main mine. He remembers a time when the community would fish with bows and arrows in the clear river water. Now polluted soil water washes into the river with black lumps of carbon in it. The mining company has announced plans to divert 16 miles of the river so they can expand the mine. Speaking Wayyu, Simon said his community opposed the diversion for spiritual and environmental reasons, not least because it would mean damming of the river higher up to control the flow.

When we asked the British embassy informally about the river diversion, their response was that only 130 or so families would be affected. However, the dispute about the river has finally united indigenous and Afro Colombian communities, supported by local students and NGOs. A legal claim known as a tutela has been brought by Dora Lucy Arias of the lawyers collective Cajar. She told us that the case had become emblematic. It represented not simply one community’s resistance to the diversion of the river, but resistance to the further development of the mine and to the human rights and environmental excesses of multinationals across Colombia. I am hopeful that Haldane members and other UK lawyers will support their struggle.

Sue Willman is a partner in Deighton Pierce Glynn, specialising in human rights and public law.
‘There is no coup here, no institutional breakdown. It is a legal situation permitted by the constitution and the laws of my country to make a change when the situation becomes unviable.’

by Michael Freitas Mohallem
With those words Federico Franco justified his ascension to the Presidency of Paraguay following the ousting of Fernando Lugo by the vote of the Paraguayan Congress in June 2012. Mr Franco’s declaration set the basis for the dispute over the legality of the Congress’s action and brings a new dimension to the issue of political transitions in a region familiar with military rather than parliamentary coups d’état.

Labeling a coup-like controversial political decision such as the removal of a democratically elected president as ‘legal’ or ‘constitutional’ may have diverted immediate criticism from law-abiding individuals and rule-of-law oriented states. Even after most of the facts surrounding Mr Lugo’s ousting became public, there is plenty of confusion regarding the limits of congressional power in presidential democracies such as Paraguay. The purpose of this brief article is to raise awareness of the many illegitimations that transformed a potentially legitimate constitutional procedure into a congressional coup d’état.

Fast-track congressional deliberation

The impeachment procedure was set a few days after the death of 17 people and dozens of others injured in a conflict between the police and landless peasants resisting a forced eviction from a privately-owned farm. The Paraguayan Chamber of Deputies, on 21st June 2012, formally accused Mr Lugo of having: (a) authorised a public meeting in a public office back in 2009; (b) instigated land occupations by peasants in the region of Nacunday; (c) neglected crimes in Campos Morombí; (d) signed an additional protocol to a multilateral treaty (USHUAIA II protocol); and (e) general responsibility for the ‘expanding criminality’ in the country. The removal procedure was based on a single article of the constitution establishing the possibility of ‘political judgment’ for high-ranking public authorities.

On the same day of the receipt of the Chamber’s accusation and establishment of the impeachment, the Senate passed an act defining the procedures for political trials such as the one before them – ‘Resolución nº 878 del 21.06.2012’. At the same session, the Senate voted the act convoking a special session in the Chamber of Deputies, on 21st June 2012, to start the procedures for political trials such as the one before them – ‘Resolución nº 878 del 21.06.2012’.

The Supreme Court of Paraguay

Having received the notification from the Senate, one day before his trial, Mr Lugo filed a lawsuit questioning the constitutionality of the resolution defining the procedures. Not only was he given the limit of two hours to present his defence, but also there was no written evidence in the accusation. In fact, the Chamber of Deputies saw no need to bring legal arguments or proofs sustaining its claims. The indictment simply reiterated the facts already mentioned in the resolution defining the procedures for political trials. The due process guarantees under the judicial process, although the procedure is technically not jurisdictional, the guarantees under the judicial process, although applicable, are not absolutely but rather partially applicable for the purpose of guaranteeing the accused due process and the right to defend himself (A.L. n° 1533 del 25.06.2012).

The Supreme Court will have a second opportunity to assess the case in a further action brought against the impeachment by Lugo’s lawyers. Nevertheless, a different conclusion nullifying the Senate’s deliberation is unlikely as no further elements seem to have arisen. Deciding against an overwhelming parliamentary majority is a difficult task for any court in the world and an impossible one to those lacking institutional independence.

International law and the international community

Paraguayan institutions entrusted with the responsibility to enforce the constitution ignored procedural rights such as the prohibition of sanctions based on laws dated subsequent to the impugned facts (article 17(3)) and the guarantee of reasonable time to prepare a defence (article 17(7)). International law was also infringed. Paraguay accepts all ratified international treaties as domestic law and is party to the American Convention on Human Rights and to the International Covenant on Civil and Political Rights. Both instruments explicitly protect the right to a fair trial, articles 8(1) and 14(5) respectively.

The public statement of the Inter-American Commission on Human Rights which considered the swift impeachment ‘unacceptable’ signals that the case may be taken to the Inter-American Court of Human Rights. However, by the time all the domestic remedies are exhausted, a new elected Government should be in office rendering an eventual pro-Lugo decision ineffective.

The international community is divided in relation to the Congress’s manoeuvring. While the governments in neighbouring countries promptly criticised the ousting of Mr Lugo, the Secretary General of the Organisation of American States (OAS), José Miguel Insulza, issued a compromising statement against any sanctions as the ‘OAS suspension would entail high economic implications for the country’. Despite this, the Union of South American Nations (Unasur) and the Southern Common Market (Mercosur) have both suspended Paraguay until next year’s election scheduled for April 2013 based on the democracy clauses of regional treaties.

Presidential democracy and the limits of congressional power

Most supporters of this ‘express impeachment’ rely on the constitutional provision allowing for the removal of the president. They claim the act was legitimate since it received the vote of 73 out of 80 deputies and the vote of 39 out of 45 Senators. However, this argument is flawed. In most presidential systems, including in the case of Paraguay, the elections for members of parliament and for the president are administered in different ballots. A president may not have a majority in parliament yet still should be legally able to run the country.

When considering the motion of no confidence in parliamentary systems along with the impeachment procedure in presidential systems one simply cannot ignore that in the latter parliament has no democratic mandate to remove the president according to its political will. The impeachment is an exceptional procedure which should be used only in extreme circumstances and due process guarantees must be observed. For instance, in 1992 an impeachment process in Brazil removed Fernando Collor from the presidency. In this case, the accusations first appeared in the press in 1991, the investigation committee in parliament was set in May 1992 and the impeachment deliberation by the Senate was completed in December 1992. More than 7 months divided the formal accusation from the final decision in stark contrast to the rapidity with which matters proceeded in Paraguay preventing Fernando Lugo from being able to prepare his case.

Recent academic writing attempted to elaborate on the concept of a legitimate ‘democratic coup’ which would be applicable in very specific circumstances (Varol O., Harvard Int Law J, vol. 53 n.2). This oxymoron has no room in modern Paraguay. The absence of tanks in the streets is surely a welcome change for a population that lived under one of the longest military dictatorships on the continent, but that does not make what happened any less of a coup. It was not up to a private sector appeal to decide whether Mr Lugo had a ‘poor performance in office’ but to the people of Paraguay.

Michael Freitas Mohallem is a PhD in Law candidate at University College London, Visiting Lecturer (UCL), Lecturer in Constitutional Law at the American College of Brazilian Studies (FL), US, member of the Brazilian Bar Association. He has an LLM in Public Law and Human Rights (UCL), Postgraduate Degree in Political Science from the University of Brasilia (Brazil) and LLB from the Catholic University of São Paulo (Brazil). He previously worked as a legal advisor in the Brazilian Senate and in the Brazilian Ministry of Justice.
While the budget and labour reforms that have caused strikes and protests across the country are daily news, another pillar of democracy is being threatened: public freedoms. It had been feared that the following political logic would be implemented: if citizens begin to protest and demonstrate in the streets because they feel that their government is wrenching away their social rights, the same government would start to implement legal measures which limit those freedoms that allow them to mobilise and which repress the way in which they exercise their rights. Let’s not forget that historically, the best conditions under which States have been able to apply the Chicago School’s neoliberal philosophy are where there is a dictatorship which has abolished social rights and where people are not able to exercise their right to protest.

On 11th April 2012, the Interior Minister, Jorge Fernández Díaz, tried to propose amendments to the Penal Code, the law on Criminal Processes and the Constitutional Law on the Protection of Public Security. During its first 100 days in government, the Partido Popular has put into motion more than a dozen reforms to articles of the Penal Code. According to Fernández, his Ministry in conjunction with the Ministry of Justice, has spent two months working on reforming the legal system. In their eyes, it is necessary to combat, what they call, the ‘spiral of violence’ practised by those whom they define as being ‘the antisystem collective’ who practice ‘urban guerrilla techniques’. Their proposal is to include as a crime ‘to integrate into a criminal organisation’ and make it ‘a serious breach of the peace’ to arrange violent rallies through whatever medium of communication such as the internet and social networks, which it is supposed would carry a minimum sentence of two years imprisonment. With this proposal, whosoever tweeted about an event of the 15-M movement (the 15th May movement of the indignados) and ended up camping in a public square, would be considered as a member of a criminal organisation. It was known already in August 2011 that the police were investigating ‘those who were using social networks, especially Twitter, to call people to occupy streets and public squares.’

According to the explanations given by the Minister to Parliament, it is his intention to also include as an offence or a crime against the authorities ‘both active or passive resistance against the security forces.’ This proposal means that somebody could be convicted of an offence for simply not obeying a police order to move on from a specific place or to disband a rally or gathering. The Minister told the news agency Europa Press, ‘it seems to us that it is fundamental to criminalise integrating into these groups in order to stand up to these movements who act in a planned and systematic manner using urban guerrilla techniques, whose aim is to cause a serious breach of the peace and those, who with the same aim, organise themselves through whatever social network.’ He added that ‘we are also trying to create an offence of public disorder, against those who trespass onto public establishments or prevent access into them, extending the type of damages that are available in cases of breaching of the peace to the damages which are available where there has been a disturbance, to or an interruption of, whatever public service.’

On the day following the general strike in March 2012, the leader of the Partido Popular in Barcelona, Alberto Fernández Díaz, had already asked for terrorist legislation to be applied to those who were implicated in altercations that happened during the strike. For his part, the Catalan Minister of the Interior, Felipe Puig, requested that the Penal Code be made more severe, ‘so that there is greater fear of the system.’ Puig also announced at the beginning of April 2012 that he would reinforce the Catalan Police’s Central Information Unit on Public Order with 100 more officers to promote restrictive measures such as preventative identifications, restraining orders and summonses to the police station, to fight against, what he labelled, ‘urban guerrillas.’

The spokesperson from the Valencian Association of Lawyers and Judges for Democracy, Ximo Bosch, stated that these announcements demonstrate that it is the Government’s intention to ‘criminalise protests which for the most part have been peaceful’. He added that ‘the Government is trying to use the ‘public order’ discourse to ‘divert...’
Young people in Puerta del Sol, Madrid in defiance of a government ban on protests in May 2012.
attention away from the cuts.’ The spokesperson of the Association of Judges believes that including ‘passive resistance’ as an offence ‘is not acceptable. Making the penal code more severe makes us think that the path of reform is moving more towards judicial repression than social action."

It is bizarre that they are trying to implement these reforms in Spain, the country with the highest rate of prisoners in Western Europe. The average time spent in prison by Spanish inmates is 18 months, which is among the longest time in Europe, and has doubled since 1996, when it was nine months. This is despite the fact that statistics show that crime rates, at least for the moment, are lower.

The reality is that the police have sufficient power through current legislation to attack fundamental freedoms. On 29th March 2012, the day of the general strike, the Catalan police detained three young students accused of putting bins onto the roads disrupting traffic and attacking the police; charges that they deny. None of them were able to take part in the most serious incidents which took place in the afternoon and culminated in 80 people being injured. The three youths have excellent academic records, no previous convictions and live with their parents. Nevertheless, the judge justified their detention on the grounds that there was a risk that they would fail to surrender to bail and that they would repeat their acts at other meetings in the city such as the meeting of the European Central Bank, which was planned for 3rd May 2012, or the derby between the two local football clubs, Barcelona and Espanyol, which was also due to take place that month. This means that they were jailed as a way of preventing them from committing other crimes, if that had indeed been their intention. At the time of writing the three remain in prison, weeks after they were first detained. What is curious is that, according to legal sources, if they were convicted of the crimes that they were accused of, they would not even be sent to prison.

The Barcelona Law Society Criminal Defence Committee and Girona Law Society’s
Socialist Lawyer

Three years, for having participated in a picket, where the interior of a bar was destroyed. The justification for his detention was that there were grounds to believe that there was a risk that he would abscond from bail. In the end, the presiding judge had to order his release because there was neither any proof that he had participated in the picket nor that there had actually been any damage to the bar that had even been contained in the initial police report.

Over the course of the last few months, police repression of protests has been at the forefront of Spanish current affairs. Last summer, we saw images on the internet of the national police beating a youth and an accompanying photographer, who were protesting against the Papal visit. Although disciplinary proceedings were started against the officers responsible, in the end they were absolved of any wrong doing. In February 2012, in Valencia, about 50 or so demonstrators from the Lluís Vives Institute, many of whom were youths, were seriously beaten by the police and were subsequently detained. Their parents were not permitted to visit them. As a result of a complaint filed by la Unidad Izquierda (the United Left) to the public prosecutor’s office responsible for youth justice, the officers now face a preliminary investigation.

The European Commission has already requested that the Spanish police stop using rubber bullets because they are considered to be ‘excessively dangerous’. The Ministry of the Interior said that it would act on the European order and declared that it would stop using the bullets from the end of 2012. Similarly, the Basque Minister of the Interior announced that the Basque police force would renounce their use from January 2013. However, neither the Spanish Government nor those responsible for the autonomous regions has mentioned the promises that were made to the European authorities.

Considering all these police actions, impunity seems to be embedded into the forces of order in the Spanish system. In February 2012, the Council of Ministers pardoned five members of the Catalan police force who had been variously punished by being disqualified from their profession, fined and imprisoned by the Supreme Court for crimes of causing physical injury, torture, maltreatment and unlawful detention. While those condemned do not even step into prison if they belong to the security forces, left-wing Basque nationalist lawyers spend years in prison even if they are innocent. A lawyer named Joseba Augdo was imprisoned in October 2009 but had to be released on 22nd March 2012, after having been absolved by the Audiencia Nacional, (the Spanish National Tribunal which determines the most serious criminal cases, such as drug trafficking, terrorism and economic crimes) of ‘having belonged to a terrorist organisation’.

Some rules/regulations have become absurd, as was the case in which the Valladolid local authority which made a municipal by-law, which provided that beggars should be fined up to €750 for asking for money in public. Pascual Serrano is a journalist. His latest book is entitled Against Neutrality. In the footsteps of John Reed, Ryzard Kapuscinski, Edgar Snow, Rodolfo Wash and Robert Capa. This is an edited version of an article that first appeared in the May 2012 issue of Le Monde Diplomatique En Español and is reprinted here with the kind permission of the author. The article has been translated by barrister Siobhán Lloyd.
**Rain forest city the focus for grassroots film-making**

Directors Sanchez and Martin have produced a meditative study of a city and its inhabitants which at times is reminiscent of the reflections on Liverpool of Terence Davies in *Of Time and the City*. This is grassroots film making which provokes thought and also debate. There was an intense discussion that encompassed broad ranging topics of Peru, the environment and the rights of indigenous peoples following the film’s first screening earlier this year.

The film makers initially began their work in this enthralling Peruvian city by focussing on the advocacy and teachings of British priest Paul McAuley, a Brother of De la Salle, with indigenous people in Iquitos. McAuley is more environmental activist than priest or vicar, carrying out his work with the Loretan Environmental Network. He is a character whose philosophy is closer to ‘liberation theology’ than the more conservative, traditional teachings of the Church. This initial interaction with Paul McAuley led the directors to interviews with indigenous communities in and around Iquitos who are fighting to protect their communities, their land and the Amazon rain forest.

The film takes the viewer from indigenous communities to the saw mill, from a street vendor selling peanuts to the cemetery. The strong conflicting forces at work in the city are portrayed at the start of the documentary as two colossal tree trunks are painstakingly hauled out of the Amazon river by a thundering fork lift truck. The psychedelic upbeat cumbia sound of chicha, the music associated with Iquitos, is captured in an original score by Matt Jelfs.

Rubén, a leader of the Huitoto Murui indigenous community who is also a law student, compellingly explains to the film makers:

‘We’ve been the victims of the exploitation of natural resources; in this case it was rubber. A process during which the Huitoto Murui, Bora and Ocaina peoples have been subjected to genocide. In this evangelisation process by the Catholic Church they came with a political and cultural agenda, forcing my ancestors and my family to believe in god, to believe in Jesus, in the Bible and respect for what the Bible says, to impose an urbanised lifestyle, to speak Spanish, uprooting us from our cultural identity, our customs, our practices, our language. Because for them being in the longhouse licking the tobacco jam, chewing coca, healing with our chants, performing our own rituals, was like desecrating the church.’

This is a documentary which is well worth seeking out. Iquitos is yet to find a mainstream distributor so for more information about the film visit www.mapachofilms.com and www.vimeo.com/mapachofilms.
Protest law compendium

The Protest Handbook
by Tom Wainwright, Anna Morris, Katherine Craig and Owen Greenhall
Bloomsbury Professional, ISBN: 978 1 84766 981 0

The backlash against austerity in Europe is producing mass demonstrations in Spain, France and Greece. In the images and videos we are increasingly seeing of protests, the tension between individuals and the State is palpable. With the 20th October 2012 TUC march to fight austerity having taken place and the National Union of Students demonstration on the 21st November 2012 fast approaching, a text by practitioners on protest law written for the benefit of protesters is a very welcome development.

The Protest Handbook is a brilliantly useful compendium of protest law, with a thorough overview of common criminal offences brought against protesters, the laws surrounding kettling and crowd control, the laws relevant to occupations, how to bring complaints and laws relevant to occupations, kettling and crowd control, the protesters, the laws surrounding offences brought against protesters is a very welcome insight into the current mindset of many in the judiciary in the wake of the August 2011 riots. The Protest Handbook also points out those cases still in the works and includes an online updating service to ensure that the reader remains up to speed with this dynamic area of law.

The aim of law is often said to be to safeguard the status quo and privileged interests. Protest is a countervailing force; it is critique of this status quo. If socialist lawyers do nothing else but keep these rights in place, ensuring that the law stays on the right side of protests and that protesters know their rights, we’ll have reason to be proud.

Natalie Csengeri

Informers in the TUC?

The Shameful Deportation of a Trade Union Leader: the Story of Albert Fava
by Jonathan Jeffries and Tom Sibley, 64pp, TGWU Section of Unite Gibraltar

We are painfully aware of the savage attacks upon British trade unionism by Thatcher and the continuation of this process by New Labour. What is less well known is the story of the enemy within the so-called ‘enemy within’. The recent blacklisting scandal in the construction industry revealed collusion between some trade union officials and the blacklisting employers, but an early indication of such betrayal is also revealed in the story of Albert Fava, a courageous Gibraltar-born pioneer of trade unionism and it deserves to be told. Thankfully, it is brought to our attention in the short but poignant book by Jonathan Jeffries and Dr Tom Sibley, The Shameful Deportation of a Trade Union Leader: the Story of Albert Fava.

International solidarity within British trade unionism was shockingly lacking in 1948 with the deportation from his native Gibraltar to Britain of Albert Fava, allegedly for communist activities which were never proved nor shown to be against the interests of Gibraltar or Britain. The story involves spies within the Trade Union Congress and Transport and General Workers Union actively undermining the interests of Gibraltar workers at the same time that these unions were informing the Atlee government’s programme in Britain. It is set within the context of the anti-fascist and anti-colonial movement in Gibraltar and reads like a spy novel involving the insidious role of the Colonial Office and British secret services.

Albert Fava was born in 1912 in Andalucia but was issued with a British passport in Gibraltar in 1940. Colonial Office files show that Fava was economically active in Gibraltar during the mid 1930s and that in 1936 he was engaged in arms procurement work for the Spanish Republican Government then under attack by the rebel Franco forces. Fava was evacuated from Gibraltar to Britain during World War Two and led an active political life in the Communist Party of Great Britain and the Amalgamated Engineering Union in Scotland. However, in 1948 he answered the call of the Gibraltar Confederation of Labour and returned to his homeland as General Secretary.

Fava’s appointment led to a dramatic increase in the activity of the Gibraltar Confederation of Labour and a vastly improved structure with a focus on its development as a mass organisation with strong anti-colonial and anti-Francoist policies. Official British colonial and trade union policy during Bevan’s years as Foreign Secretary was to encourage the development of independent trade unions in the Colonies. However, whenever trade union developments suggested a challenge to British interests, such as the strategic importance of Gibraltar as a naval dockyard, there was interference and action taken to prevent colonial workers from pursuing their democratic rights. This interference and the role of informers ultimately led to Fava’s deportation from his homeland in October 1948, just three months after he took up his post. For a full appreciation of this story, Socialist Lawyer readers are encouraged to read this excellent book by Jeffries and Sibley.

Declan Owens

Socialist Lawyer October 2012 37
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Thursday 13th December 2012
6.30pm
The Injustice of privatisation
Speaker: Owen Jones
Independent columnist and author of Chavs and from Public and Commercial Services Union (PCS)

Thursday 17th January 2013
6.30pm
Higher education for sale
Speakers: Michael Chessum National Campaign against Fees and Cuts and member NUS National Executive and others to be confirmed

Thursday 17th February 2013
6.30pm
Back to work schemes, ATOS, forced labour: the fight in the Courts
Speakers: Tessa Gregory solicitor, Public Interest Lawyers and others to be confirmed

Thursday 14th March 2013:
Trafficking: Law and politics
Speakers to be confirmed

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Further information from www.haldane.org

Haldane WINTER PARTY: 30th Nov see inside back page